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REPORT
No. 470

REVENUE BOND FINANCING BY TVA

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Mr. KERR, from the Committee on Public Works, submitted the following

REPORT

together with

SUPPLEMENTAL AND INDIVIDUAL VIEWS

[To accompany H.R. 3460]

The Committee on Public Works, to whom was referred the bill (H.R. 3460) to amend the Tennessee Valley Authority Act of 1933, as amended, and for other purposes, having considered the same, report favorably thereon, with amendments, and recommend that the bill as amended do pass.

The amendments are indicated in the bill as reported by linetype and italic.

PURPOSE OF THE BILL

The purpose of H.R. 3460 is to authorize the Tennessee Valley Authority to issue and sell revenue bonds, in an aggregate amount not to exceed $750 million outstanding at any one time, to assist in financing needed additions to its power system. Proceeds of the bonds could be used for construction, acquisition, enlargement, improvement, or replacement of any plant or other facility used for the generation or transmission of electric power or in connection with lease-purchase transactions, for supplying power within a specified area. Such bonds would not be obligations of nor guaranteed by the United States. The principal of and interest on such bonds would be payable solely from TVA's power revenues, and TVA would be directed to charge rates for power sufficient to cover debt service on the bonds, as well as other expenses, and pay a return to the Treasury on the appropriation

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investment and also a repayment of $1 billion of said appropriation investment. The bill also contains a geographic limitation on the area within which TVA power can be distributed, and includes provisions for submission and transmittal of the TVA power construciton program to the Congress; for review of the proposed bond issues by the Secretary of the Treasury, and for the necessary administrative authority for the TVA Board to carry out the provisions of the TVA Act, including annual and audit reports.

Need for the Legislation

There have been no funds appropriated for initiation of construction of new generating capacity by TVA since 1953. During this period, TVA has constructed a number of additional units at existing plants by use of power revenues, but such revenues cannot provide adequate funds to provide the required facilities to meet the normal growth.

In the President's budget message for fiscal year 1956, it was stated:

> The Tennessee Valley Authority is giving immediate attention to the possibilities of financing further expansion of its power system by means other than Federal appropriations. The Authority has been requested to complete its studies in time to permit consideration by the Congress at this session of any legislation that may be necessary. It is expected that the power needs for the system will be reexamined after the Congress has had an opportunity to consider legislation to provide for future financing.

Similar statements have been included in each budget message since 1956. A pertinent passage from the budget message of the President for fiscal year 1960 is as follows:

> I again urge the Congress to take action early in this session to authorize the sale of revenue bonds by the Tennessee Valley Authority in order that the Authority may meet its needs for new generating facilities. Under such legislation the Congress would retain budgetary control of the program. This budget includes a supplemental authorization for fiscal 1959 for $200 million under the proposed revenue bond legislation.

The committee was advised by the Chairman of the TVA Board that the power requirements are now growing at a rate of about 12 percent annually. A shortage of power capacity of about 600,000 kilowatts is anticipated during the winter of 1961–62, which shortage will reach about 1 million kilowatts by the following year, with allowance made for the generating capacity the Corporation is able to finance will available power revenues. The supplemental estimate of $200 million mentioned in the President's budget estimate for 1960 was anticipated for new electric generating capacity of at least 1 million kilowatts.

The TVA is the sole supplier of electric power for an area of about 80,000 square miles in which over 5 million people live and work. The presently installed capacity is 10,800,000 kilowatts, which produces in excess of 60 billion kilowatt-hours of electricity annually. About one-third of the power installation is required for installations of the

Atomic Energy Commission, and approximately 52 percent of the energy is sold to Federal agencies including the Atomic Energy Commission. TVA power is sold to 152 distributors, 99 municipal, 51 cooperative, and 2 small privately owned-systems, and serves directly some industrial plants. Residential and farm use of power in the area has increased rapidly, partially due to heating about 200,000 homes exclusively by electricity, about half the total so heated for the Nation. The municipal and cooperative distributors have a total of about 1,500,000 home, farm, commercial, and industrial consumers.

Authorization of some means for TVA to finance the needed additional power capacity to fulfill its obligations to supply the area with dependable power is essential.

Hearings

A number of bills providing for issuance of revenue bonds by TVA to finance needed additions to its power system were introduced in both the 84th and 85th Congresses. Extensive hearings on such legislation were held by subcommittees or the full membership of both the House and Senate Committees on Public Works. These included:

1. Senate hearings in the 84th Congress, held on July 21, 22, and 27, 1955, on S. 2373.

2. House hearings in the 1st session of the 85th Congress, held on March 28 and 29, April 1, 2, 3, and 5, and May 6 and 7, 1957, on H.R. 3235 and H.R. 4266. Following these hearings the committee favorably reported H.R. 4266.

3. Senate hearings in the 1st session of the 85th Congress, held on April 30 and June 6 and 7, 1957, on S. 1855, S. 1869, S. 1986, and S. 2145. Following these hearings, S. 1869 was favorably reported by the Senate Public Works Committee with amendments, and after adoption of additional amendments on the Senate floor, was passed by the Senate.

4. House hearings in the 2d session of the 85th Congress, held on July 28, 29, and 30, 1958, on S. 1869. Following these hearings, S. 1869 was favorably reported by the committee but not acted upon by the House prior to adjournment of the 85th Congress.

5. Hearings on the present bill, H.R. 3460, were held by the House Committee on Public Works on March 10 and 11, 1959, and by the Senate Committee on Public Works on S. 931 and H.R. 3460, on June 9 and 10, 1959, to afford proponents and opponents of the proposed legislation a full opportunity to restate their views and to familiarize new members of the committees with the background and provisions of the proposed legislation.

Amendments

The committee recommends certain amendments to H.R. 3460. An outline of the proposed amendments follows. They are discussed more fully in other portions of this report.

The provisions of the bill relative to establishment of a limitation on the area within which TVA power could be supplied, as passed by the House of Representatives, were modified to permit the Corporation to make contracts for the sale of power with entities with which they had contracts on July 1, 1957, and to require specific authoriza-

tion by Congress for supply of power to any city not now served which owned its power distribution system on July 1, 1957, having a population in excess of 10,000 or to any other city having a population in excess of 5,000, according to the latest available Federal census, or which would increase the area for which the Corporation was the primary source of power supply on July 1, 1957, by more than 2½ percent or 2,000 square miles, whichever is the lesser, no part of which could be in a State not now served by the Corporation, nor more than 500 square miles could be in any one State now served by the Corporation or its customers. Three communities, Fulton and Monticello, Ky., and Oak Ridge, Tenn.; the naval auxiliary air station in Lauderdale and Kemper Counties, Miss., and the rural customers of the East Mississippi Electric Power Association in its present service area, were added to the communities specifically exempted from the limitation on territorial expansion, and the area of such exempted communities is not to be included in the 2½ percent or 2,000 square miles allowable expansion of the present service area.

The Atomic Energy Commission was added to the provision to permit TVA to transmit power to new facilities of the Department of Defense or any agency thereof on certification by the President that an emergency need for such power exists.

The requirement that expenditure of bond proceeds be subject to the so-called Buy American Act was deleted as being unnecessary. Provisions relative to submission of the TVA power construction program to the Congress and its consideration, were substituted for the notification and approval by project provisions in the House bill.

The provision exempting the inclusion of the proceeds and bonds of TVA in computations of receipts, expenditures, surpluses or deficits in the annual budget, except for the amounts budgeted by the Corporation as a return on the appropriation investment and reduction of said investment, was deleted from the bill.

The provisions relative to approval of proposed TVA bond issues by the Secretary of the Treasury were deleted and additional provisions substituted therefor. These would require the Corporation to advise and consult with the Secretary of the Treasury on the details of a proposed bond issue, with the time of issuance and the maximum rate of interest to be borne by the bonds subject to approval by the Secretary of the Treasury. If the proposed issue of bonds is not approved within 3 working days, the Corporation could issue interim obligations in the amount of the proposed issue to the Treasury and the Treasury is directed to purchase such interim obligations. In case the Corporation determines that a proposed issue of bonds cannot be sold on reasonable terms interim obligations could be issued to the Secretary of the Treasury with a limitation of $150 million on the interim obligations outstanding at any one time, to mature on or before 1 year from date of issue, and bear interest equal to the average rate on outstanding short-term obligations of the United States. If agreement is not reached within 8 months on a proposed bond issue, the Corporation could sell such bonds, without approval of the Secretary of the Treasury, in an amount sufficient to retire the interim obligations.

Provisions were deleted which would exempt the TVA from the Government Corporation Control Act relative to the authority for

investment and deposit of the proceeds of the Corporation's bonds and other funds.

The House bill provided for a repayment to the Treasury of the sum of $10 million annually to be applied to reduction of the appropriation investment in the Corporation's power facilities. The committee proposes amending that provision to provide for a repayment of $10 million annually for each of the first 5 years, 15 million for each of the next 5 years, and $20 million for each year thereafter until a total of $1 billion of the appropriation investment has been repaid.

The provision for use of power revenues for additional reduction of the appropriation investment as considered advisable by the Board was clarified.

The provision for the Corporation to perform engineering and construction work in connection with the lease, purchase, or purchase of the output of a generating plant other facilities, was clarified as applicable only to such necessary work of this nature.

The committee has added a new section to H.R. 3460 which amends section 5(m) of the TVA Act, to repeal the prohibition against the sale of ferrophosphorus for export.

Discussion

The committee is fully cognizant of the situation relative to the problem of power supply to meet the growing needs of the Tennessee Valley area. Electricity has become a necessity in our modern economy, and the progress of any region depends upon an adequate supply thereof. The TVA area is no exception. It is one of the fastest growing regions in the country today, with a rapid shift in emphasis from an agricultural area to an important and expanding industrial region. Its power needs are increasing accordingly. Unless construction of new generating capacity is undertaken in the near future, inadequate capacity and power shortages will result.

The major factor in the power generation demands on the TVA system has been the growth of power loads for defense installations. Homes and farms need more power as its use is increasing rapidly. Expanding industrial development will also increase the demand for electricity.

In 1939 the Congress enacted legislation authorizing TVA to purchase the facilities owned by private power systems in the Tennessee Valley region. By this action, the Federal Government assumed the responsibility for supplying the power needs of the area. Relying upon this commitment, many cities, rural electric cooperatives, and large industries, many of the latter important to national defense, have invested hundreds of millions of dollars in distribution facilities and manufacturing plants in the expectation that a prudent management would supply such increasing amounts of power as the economy of the region demands.

By 1940, TVA had completed or had under construction most of the economically feasible hydroelectric installations. The increasing power demands created by World War II, particularly Government-owned atomic energy installations, necessitated additional power facilities to care for the increased power demands. To meet these demands required additional appropriations and the use of power revenues to finance the expansion of power-production facilities.

Information furnished the committee indicated that the demand for electricity in the TVA area is increasing by about 750,000 kilowatts annually, exclusive of possible additional requirements of Government agencies. An expenditure of about $150 million per year is required to provide capacity for this increased demand. Congress has provided no appropriations for 6 years to finance the initiation of new generating plants for TVA. In the meantime, TVA has been expanding existing plants by use of available power revenues. The lack of funds from appropriation sources raises serious doubts as to whether TVA can fulfill its commitment in providing an adequate supply of power to the area without the necessary authority for obtaining additional funds. Since new generating capacity takes about 3 years to build under normal schedules, the present rate of growth indicates that a serious power shortage will develop unless construction of additional capacity begins in the near future.

The power revenues of TVA will not provide sufficient capital to meet the full needs of the power requirements, and TVA must look to other sources of funds to relieve the prospective power shortage and prevent retardation of the present rapid economic growth. The most practicable method of financing the necessary improvements is believed to be by use of proceeds from the sale of revenue bonds.

Legislation to permit TVA to finance new power facilities by sale of revenue bonds has been pending before the Congress for more than 4 years. Such procedure has been recommended by the TVA Board, the Bureau of the Budget, and others, and has been advocated in the last five budget messages of the President. The problem before the committee was to determine the most practicable method of providing the TVA Board, as the manager of a large Federal power project, with the authority and flexibility necessary for proper discharge of its responsibility toward the economic development of the area, while fully protecting the Federal investment and retaining adequate congressional control over TVA operations.

H.R. 3460 authorizes the use of bond proceeds as may be required in connection with the lease or lease purchase of any electric plant or facility, and permits TVA to provide certain necessary services as a means of assuring that such plants would be constructed economically and to standards that would fit such facility into the TVA power system, and which might be needed for such construction to be feasible. It also includes needed provisions to avoid duplication of tax and in-lieu taxpayements to State and local governments on facilities operated under lease or lease-purchase arrangements.

The committee believes that such a procedure offers a possibility of acquiring a plant financed with funds provided by a local agency. If such a plant is to become a part of the TVA power system, and TVA is to ultimately bear all the costs, the Corporation should be in a position to influence selection of a site, the plant design, the engineering characteristics, and be assured of the efficiency and economy of construction just as if the plant were constructed by TVA.

H.R. 3460 exempts the proceeds of TVA bonds and power revenues from the apportionment provisions of existing law. The primary purpose of the apportionment procedure is to prevent anticipation of appropriations. The committee does not believe this procedure should be applicable to programs financed by the sale of revenue bonds.

The committee understands that all purchases by the TVA are subject to the provisions of the so-called Buy American Act, and has deleted certain language applicable to that act from H.R. 3460, with the expectation that TVA will continue to follow existing rules and regulations thereto, with the application of the appropriate cost differential to proposals for such purchases.

The committee believes that the TVA Board would not be reckless in utilizing the authority to provide additional service, which actually amounts to less than 1 mile around the periphery of the present area in which TVA power is used, and would properly use such authority to supply isolated communities and contiguous areas, extension into rural areas and expanded municipal areas, and minor necessary adjustments around the periphery and within the area in which power is now supplied.

H.R. 3460, with the amendments proposed by the committee, does not change the basic administrative premise of the TVA Act. The TVA Board will continue to be held fully responsible by the Congress for the results of its operations, and it will have corresponding administrative authority in the discharge of this responsibility. The actions of the Board will be subject to annual review by the Congress.

During its consideration of the various bills before it, the committee gave particular attention to certain features of the proposed legislation hereafter discussed.

Approval of Projects

The committee considers that approval of H.R. 3460 by the Congress would constitute authorization for the Corporation to issue the entire amount of $750 million in revenue bonds, without the necessity of additional authorization by Congress on a piecemeal basis. It is not believed that the adoption of this limitation would impair the marketability of the bonds. Barring unforeseen circumstances, it would be 4 or 5 years before the limitation is reached. Consideration could then be given by the Congress to raising the ceiling if required to meet the growth in the area's power needs well in advance of the time it is needed.

The amendment proposed by the committee provides that with the budget estimates transmitted by the President to the Congress, either the regular annual budget estimates or supplemental estimates that may be transmitted from time to time, there shall be included the TVA power construction program as presented to him and recommended by the Corporation, together with any recommendations or comments he may deem appropriate. Neither bond proceeds nor power revenues of the Corporation could be used to initiate construction of new power producing projects until the construction program of the Corporation has been before Congress in session for 90 calendar days, except for replacement purposes and except for the first such project on which construction is initiated after the effective date of this act. This will permit the use of funds for emergency or desirable replacements, and for initiation of construction of the first new power producing project under the revenue bond financing program this year without waiting for the time to elapse for the proposed program to lie before Congress.

In the absence of any modifying action by a concurrent resolution of the Congress within the 90-day waiting period, such projects would

be deemed to have Congressional approval. This procedure would permit consideration by the appropriate legislative committees of Congress, and is believed to assure adequate Congressional review and control. The committee expects the TVA Board to keep the President and the Congress informed on their power producing activities at all times, and advised of their anticipated power construction program, including additions to existing facilities, as far in advance as possible. As used in this section, the term "projects" is considered to mean a complete plant, and not an addition to an existing plant.

Territorial Limitation

Under the original TVA Act, Congress provided that the area in which TVA power should be made available would be determined, first by the desire of the people, and second by the economic and engineering feasibility of providing service. The term "service area" is a nebulous one and difficult to define. TVA now has no service area as such. TVA delivers power to points, thus the service area of TVA is the service area of its customers. Although there has been no statutory boundary established, there has been no material increase for about 15 years in the area supplied by power from TVA. It was generally agreed by many that the working arrangement that now exists with respect to this area was satisfactory and no area limitation was required. Others believed, however, that the stabilization area should be defined and limited by law.

The bill, S. 1869, which passed the Senate in 1957, contained for the first time an effort to draw a rigid statutory boundary around TVA power operations, meeting the fears of TVA expansion, while at the same time preserving sufficient flexibility to permit normal peripheral adjustments without requiring individual legislative action. The provisions greatly reduced the area within which communities might make application for power service, but caused considerable controversy with many contentions that the bill would have invited a large expansion of the TVA service area.

The committee recognizes the problems inherent in an attempt to establish a rigid boundary for limitation of power service. The House evidently encountered these problems also and included several exemptions in H.R. 3460. Specific problems of individual communities were brought to the attention of the committee and several additional exemptions were included. Passage of the bill would not require these communities to complete their efforts to receive power from TVA. The exemptions save to those communities the right and opportunity they have under existing law and which they were believed to be in the process of exercising.

The committee believed it desirable to authorize minor adjustments in area, to permit elasticity and adjustment in an attempt to eliminate certain problems, and to obviate the necessity of coming back to Congress for each slight adjustment or change, as by extension of lines by a distributor of TVA power. The proposed amendment would permit an increase of the lesser of: (*a*) 2½ percent of the area for which TVA was the chief or principal supplier of power on July 1, 1957, or, (b) 2,000 square miles. Aside from exceptions expressly provided for in the bill, any area expansion by TVA would be included in the

percentage, and/or square-mile limitations, with further provisions that no part of the area could be in a State not now served by the Corporation, nor more than 500 square miles of which could be in any one State now served by the Corporation or its customers. Contracts for the supply of power could be made with customers with which the Corporation had such contracts on July 1, 1957, but congressional action would be required for power supply to any city not now served having a population in excess of 10,000 which owned its distribution system on that date, or to any other city having a population in excess of 5,000, or to an area in excess of 2,000 square miles, or other specified limitations. The committee believes that this provision would permit minor adjustments within, and around the periphery of, the TVA area, permit cities to serve contiguous or expanded areas, and enable rural cooperatives to serve new rural customers within the general area which they now serve. The delivery points for TVA customers are subject to change in accordance with the requirements of the distributor. The contracts under which TVA sells power to distributors do not limit the areas in which those distributors may sell power. Thus only a few of the distributors have a legally defined service area. The area where each distributor sells power is determined by community growth and the relationship between neighboring distributors. Within the general area receiving TVA power there are small areas served by private power entirely surrounded by the lines of TVA distributors. There are also many areas in which the lines of distributors of TVA power and the lines of private power companies are interlaced.

The committee was of the opinion that the language of the House bill would invite litigation any time that a distributor of TVA power undertook service to a new customer, even within the general area it was already serving. Even if such litigation were eventually resolved in an equitable manner, its existence could raise serious problems in the marketing of the bonds by TVA.

The committee is opposed to any provision that would limit the freedom of TVA and neighboring power systems to enter into mutually desirable arrangements for the interchange of power. The limitation on TVA taking on as a new customer any city with populations of over 5,000 or 10,000 will protect the general load centers now served by private companies about which much apprehension has been expressed to the committee. It is also intended that existing contracts, including those to defense installations, will not be affected by the provisions of this section.

In summation, the committee believes that H.R. 3460, as amended, is satisfactory and equitable insofar as the territorial restrictions is concerned. It will permit desirable minor adjustments on the periphery of the area presently supplied and within that area; prevent service to additional cities with a population in excess of 5,000 or 10,000 if they own their distribution systems; protect the rights of certain communities to choose their power supply; protect the areas now being served by private utilities; preserve existing contracts, interchange arrangements, and power supply to defense installations; and reduce the possibility of litigation and confusion arising from ambiguous terms. It further believes that the TVA Board would

use extreme caution in extension of service as authorized and would not encroach on other communities now served by private enterprise.

Approval of Issuance of TVA Revenue Bonds by the Treasury

H.R. 3460 as passed by the House exempts TVA revenue bonds from the requirements of approval by the Secretary of the Treasury as to interest rates, terms, and other conditions as provided under the Government Corporation Control Act. Under the House bill, the Secretary of the Treasury would be consulted by TVA with respect to a proposed bond issue, and he could hold up the issuance and sale of the proposed bonds for a period up to 90 days. The committee deleted the provisions relating to approval by the Secretary of the Treasury, as they were considered unrealistic in operation and a definite limitation on timing of bids or negotiations on TVA bond issues by the Corporation.

The committee proposes substitute language providing for advice and consultation between the Corporation and the Secretary of the Treasury, with the bond issue subject to approval by the Secretary only as to time of issuance and the maximum rates of interest to be borne by the bonds. It provides a temporary means of financing the authorized power program of TVA if the Secretary does not approve a proposed issue of TVA bonds, or if the TVA determines that a proposed issue of bonds cannot be sold on reasonable terms.

In case the Secretary of the Treasury does not approve a proposed issue of bonds within 3 working days of its submission to him for approval, he would be directed, if requested by the TVA, to purchase interim obligations of TVA in the amount of the proposed issue. In case the Corporation determines that a proposed bond issue cannot be sold on reasonable terms, the Secretary is authorized to purchase interim TVA obligations. The total amount of such interim obligations purchased and owned by the Treasury would be limited to $150 million. Such obligations would be payable on or before 1 year from date of issue, and the interest rate would be determined by the average interest rate paid by the Treasury for obligations of comparable maturities. If agreement is not reached within 8 months concerning the issuance of any bonds which the Secretary has failed to approve, the Corporation may sell such bonds on any date thereafter, without approval by the Secretary, in an amount sufficient to retire the interim obligations issued to the Treasury, and such interim obligations will be retired from the proceeds from such bonds.

PAYMENTS TO THE TREASURY

H.R. 3460 repeals the last three paragraphs of the TVA item in the Government Corporations Appropriation Act, 1948. The first of these deleted paragraphs contain the provisions for payments to the Treasury by the TVA, beginning on June 30, 1948, of necessary amounts to total $348,239,240 over a 40-year period, and the outstanding bonded indebtedness to the Treasury. The second deleted paragraph required TVA to pay into the Treasury within 40 years after a power facility goes into operation an amount equal to the appropriated funds invested in such facility.

In lieu of these deleted paragraphs, the bill requires TVA to make two types of payments to the Treasury. The first is a semiannual return on the appropriation investment based on the Treasury's current average cost of money. Approximately $1,200 million investment in the TVA power system supplied by appropriations and transfers of property from other agencies is outstanding. This return is in the nature of an annual dividend to the Government as the owner of the Corporation, and will be much larger than the annual amount now necessary to amortize the cost of power facilities in 40 years. These payments represent only a part of the actual earnings by the Government on its investment. Over the years, TVA earnings have been sufficient to cover operation and maintenance, depreciation, and to provide an average return of about 4 percent on the total investment. That portion of the earnings which has not been paid into the Treasury has been reinvested in new power facilities. As a result, the TVA power system is now a Government asset of much greater value than the net amount of the appropriation investment. The return payments will not reduce the appropriation investment, but will continue to be made as long as there is an appropriation investment in the TVA power system. Such payments will insure that the Tresaury will have no carrying charge on this investment since TVA's annual payments on it as a return will always be equal to the Treasury's current interest cost, determined by applying the computed average interest rate payable by the Treasury on its total marketable obligations as of the beginning of the fiscal year in which the payment is made to the appropriation investment.

The second payment required under H.R. 3460 is a repayment to the Treasury by the TVA of not less than $10 million per year for each of the first 5 fiscal years, $15 million for each of the next 5 fiscal years, and $20 million for each fiscal year thereafter, such repayments to be applied to reduction of the appropriation investment until a total of $1 billion has been repaid. These repayments will reduce the appropriation investment by $1 billion in about 54 years, which is the approximate time period for repayment of similar Federal projects financed by appropriations. There would remain a relatively small amount of appropriation investment in the TVA power system, which would represent, together with the reinvestment of power, revenues, the equity of the Federal Government in the System. The committee believed it advisable to retain some appropriation equity in the assets of the Corporation. The Government is the owner and sole stockholder of TVA, and will own the equity built up by the earnings of the Corporation. The existing power facilities built from appropriations and reinvestment of earnings will produce revenue for making these returns to the Treasury and also for assisting in the debt service on revenue bonds used for construction of additional power facilities. The bondholders would have a prior claim on the earnings of the Corporation, but the Government, as owner, would control the Corporation and own the equity built up by earnings. The bill provides the Government and the bondholders insurance against loss by the requirements for rate charges for power and reinvestment provisions. Payments to the Treasury may be deferred for not more than 2 years in event of drought or other features beyond the control of the Corporation.

Investments and Depositories

The committee deleted a provision of H.R. 3460 with respect to the authority for investment and deposit of the proceeds of the Corporation's bonds and its other funds. The provision specified that investment and deposit might be made notwithstanding the provisions of section 302 and section 303 of the Government Corporation Control Act. The pertinent parts of sections 302 and 303 of that act require the approval of the Secretary of the Treasury (1) of the deposit of funds of a Government corporation with a Federal Reserve bank or with a bank designated as a depositary or fiscal agent of the United States, and (2) of the sale or purchase by a Government corporation at one time of direct or guaranteed obligations of the United States aggregating more than $100,000. The committee deems it advisable that the deposit and investment of the proceeds of the Corporation's bonds and other funds be subject to the approval of the Secretary of the Treasury in these two respects, and has therefore deleted the exceptions from the Government Corporations Control Act in this regard

It is the belief of the committee that investment of the proceeds from the sale of bonds by the TVA in guaranteed obligations of the United States until needed for disbursement would be a sound proposal. With the approval of the Secretary of the Treasury, TVA could invest any amount of their funds at any time in Government bonds, and not be limited to $100,000 purchased at one time. When the depository for funds of a Government corporation is approved by the Secretary of the Treasury, he can demand collateral for their security.

It is the intent and hope of the committee that there will be the fullest spirit of cooperation in these matters between representatives of the Treasury Department and the Tennessee Valley Authority, to the benefit of all concerned. Representatives of the Treasury Department assured the committee of their cooperation.

Inclusion of TVA Operations in the Federal Budget

The committee has deleted language from H.R. 3460 which would exempt inclusion of the power expenditures and power receipts of the TVA in the computation of receipts, expenditures, surpluses, or deficits in the annual budget of the Federal Government. At the present time such receipts and expenditures of all wholly owned Government corporations are shown in order to reflect the overall financial requirements of the Federal Government. These include power receipts and expenditures of TVA and the payments to the Treasury by the Corporation. The bill does not change the status of TVA as a wholly owned Government Corporation, in which there is a considerable Federal investment. The committee is of the opinion that with the acquisition of capital from the sale of revenue bonds, which are not obligations of nor guaranteed by the United States, the TVA is placed in a different category than other wholly owned Government corporations. Expenditure by TVA of the proceeds of bonds which are not guaranteed by the United States and of power revenues will not add in any way to the burden of taxpayers or of the

Treasury, and the committee therefore believes, and so recommends to the Bureau of the Budget, that the source of funds and details on the revenue bonds, be properly identified in the budget, in order that expenditure of bond proceeds not be reflected as a net budget expenditure.

Sale of Ferrophosphorus for Export

Ferrophosphorus is an unavoidable byproduct of the production of phosphorus by the electric furnace method. TVA produces about 10,000 long tons of ferrophosphorus per year, of which approximately 8,000 tons contain 23 to 26 percent phosphorus and 2,000 tons contain less than 23 percent phosphorus. TVA sells some of the higher grade material to domestic steel producers, but there is no domestic market for the lower grade ferrophorphorus. Steel producers in Belgium and Luxembourg, however, use the low grade material in the production of steel, and in the years 1950 to 1953 TVA sold 29,000 long tons of ferrophosphorus in Belgium and Luxembourg, for which it obtained $1,144,880.

Under the authority of the original TVA Act, the Corporation was authorized to sell its products to allied countries during World War II. For a brief period after the state of war was terminated, temporary legislation permitted TVA to sell its products to nations associated with the United States in defense activities. This latter authority expired on April 1, 1953, and since that date, TVA has been prohibited by law from selling any of its products for export.

For some time after April 1, 1953, the price of ferrophosphorus for foreign consumption declined. The price of low-grade ferrophosphorus has recently risen again, and is now approximately $35 per long ton. The committee was advised that TVA has accumulated a stockpile of over 30,000 long tons of low-grade ferrophosphorus worth over $1 million for sale in the foreign markets. Low-grade ferrophosphorus can make no contribution to the domestic economy and serves to create a storage problem and additional expense for TVA. It is, however, suitable for use in the steelmaking processes of friendly European countries, and if permitted to sell it, TVA could derive substantial revenues and at the same time make a contribution to the economy of Western Europe. This provision is approved by the committee with the understanding that any export of ferrophosphorus will be limited to that surplus to the needs within the United States, its Territories and possessions, that such export will be made only to friendly nations, in accordance with existing law, and will not interfere with or violate any of our international commitments. Representatives of the Department of State advised that they would offer no objection to the amendment under those terms, and if disposals are made subject to the following provisions of Public Law 520, 79th Congress:

> Section 3(e) * * * No such disposition shall be made until six months after publication in the Federal Register and transmission of a notice of the proposed disposition to the Congress * * *.
>
> * * * The plan and date of disposition shall be fixed with due regard to the protection of the United States against avoidable loss on the sale or transfer of the material to be

released and the protection of producers, processors, and consumers against avoidable disruption of their usual markets: * * *.

Conclusions and Recommendations

The committee concludes, that H.R. 3460, as amended, is an excellent bill which presents a fair, equitable, and workable solution to the problem of financing the future power needs of the Tennessee Valley area, and that its enactment would provide TVA with an additional source of funds with which to construct the necessary facilities required to keep pace with such needs, under provisions that will permit TVA to operate efficiently with flexibility and under adequate congressional review. The measure fully protects the interests of the Federal Government as the owner of the TVA system and is consistent with and will advance the attainment of the objectives of the TVA Act.

The committee recommends and urges enactment of this legislation.

Summary and Analysis of Bill

Section 1, repealer clause

The repealer clause of the first section of H.R. 3460 repeals the last three paragraphs of the Tennessee Valley Authority item in title II of the Government Corporations Appropriation Act of 1948. The first two of these repealed paragraphs contain the present 40-year payment plan under which TVA is required to pay into the Treasury within 40 years, until a certain sum of appropriation investment and bonded indebtedness is repaid, and in addition an amount equal to the appropriated funds invested in a power facility within 40 years after such facility goes into operation. The third of the repealed paragraphs prohibits the use of power revenues to begin construction of a new power-producing project, as distinguished from the addition of new units at existing plants, without prior expressed congressional approval.

Subsection 15d(e) requires TVA to make two types of payments to the Treasury in lieu of the repealed provisions.

Section 1 also amends the Tennessee Valley Authority Act of 1933, as amended, by inserting immediately after section 15c thereof a new section 15d comprised of subsections (a) through (h).

Subsection 15d(a)

This subsection contains a general authorization for the TVA to issue and sell bonds, notes, and other evidences of indebtedness in an amount not exceeding $750 million outstanding at any one time to assist in financing its power program, and to refund such bonds. The Corporation is authorized to use the proceeds from such bonds for the construction, acquisition, enlargement, improvement, or replacement of any generating or transmission facility, including that portion of any multiple-purpose structure used or to be used for power generation; or for any expenditures required in connection with a lease, lease-purchase agreement, or a contract to purchase the power output of any plant or other facility and for incidental purposes. Unless specifically authorized by act of Congress, TVA could make no contracts making

it the primary source of power to any additional city not now served having a population in excess of 10,000 which owned its power distribution system on July 1, 1957, or to any other city having a population in excess of 5,000, according to the latest available Federal census, or which would increase the area in which TVA power was supplied on July 1, 1957, by more than 2½ percent or 2,000 square miles, whichever is the lesser, no part of which could be in a State not now served by the Corporation, nor more than 500 square miles of which may be in any one State now served by the Corporation or its customers. The subsection further provides that nothing contained therein shall prevent continued service to Dyersburg and Covington, Tenn., to which TVA began supplying power after July 1, 1957; service to Paducah, Princeton, Glasgow, Fulton, and Monticello, Ky., Chickamauga and Ringgold, Ga.; Oak Ridge and South Fulton, Tenn.; the Naval Auxiliary Air Station in Lauderdale and Kemper Counties, Miss.; rural customers in the area now served by the East Mississippi Electric Power Association; and transmission of power to the Atomic Energy Commission and to the Department of Defense on certification by the President that an emergency defense need for such power exists. Nothing in the act would affect the present rights of the parties in any existing lawsuits involving efforts of towns in the same general area where TVA power is supplied to obtain power from TVA.

The proposed bonds would be revenue bonds and not general obligations of the TVA or the United States, with principal and interest payable solely from net power proceeds. These proceeds to which the bondholders must look for payment of principal and interest, are defined as the gross revenues derived from the sale of power, less operating, maintenance, and administrative expenses, including an allocated part of the cost of operating multiple-purpose properties, and payments to States and counties in lieu of taxes under section 13 of the TVA Act, but before deducting depreciation charges, and would include funds derived from any sale of power properties, and reserve or other funds set up under bond contracts, in accordance with applicable bond covenants for debt service on the bonds. The net power proceeds as defined may be used for the payment of principal and interest on bonds, the purchase or redemption of bonds, and for incidental purposes such as creation of reserve funds or other funds, as deemed desirable. The TVA would be authorized to make such covenants with the bondholders or trustees as deemed necessary or desirable to make the bonds more marketable.

The proceeds from bonds may be expended for specified purposes, including the addition of generating units to existing power-producing projects and construction of additional power-producing projects, without limitation of any other law. The subsection provides, however, that the power construction program as presented and recommended by the TVA, will be transmitted to the Congress by the President with the budget estimates, together with any recommendations he may deem appropriate. Neither bond proceeds nor power revenues received by the Corporation could be used to initiate the construction of new power-producing projects, except for replacement purposes and for the first such project begun after the effective date of this section, until the construction program had been before Congress in session for 90 calendar days. In the absence of modifying action by Congress by concurrent resolution, the projects would be deemed to have congressional approval.

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Subsection 15d(b)

This subsection makes it clear that the bonds issued by the TVA will not be obligations of or guaranteed by the United States, but will be secured as to both principal and interest solely by power revenues of the Corporation, and provides that the proceeds of such bonds and from power operations and expenditure of such proceeds shall not be subject to the apportionment procedure set forth in title 31, United States Code, section 665, which provides for distribution of funds for expenditure over portions of the entire fiscal year.

Subsection 15d(c)

This subsection grants TVA authority to determine the forms, denominations, maturities, conditions, interest rates, and sale prices of bonds, subject to the provision that such bonds shall mature in not more than 50 years from their dates of issue. At least 10 days before selling each issue of bonds under the provisions of this section, the Corporation shall advise the Secretary of the Treasury in the fullest possible detail with respect to the proposed bond issue, and if requested by the Secretary, consult with him or someone designated by him, on the matter. The sale and issuance of such bonds would be subject to approval by the Secretary only as to time of issuance, and the maximum rates of interest to be borne by the bonds. If the Secretary of the Treasury does not approve a proposed issue of bonds within 3 working days following the date on which he is advised of the proposed sale, the Corporation may issue to the Secretary interim obligations in the amount of the proposed issue which the Secretary is directed to purchase. Should the Corporation determine that a proposed issue of bonds cannot be sold on reasonable terms it may issue to the Secretary interim obligations which the Secretary is authorized to purchase. These interim obligations issued by the Corporation to the Secretary shall not exceed $150 million outstanding at any one time, shall mature on or before 1 year from date of issue and shall bear interest equal to the average rate on outstanding marketable obligations of the United States with maturities from dates of issue of 1 year or less as of the close of the month preceding the issuance of the obligations. If agreement is not reached within 8 months concerning the issuance of any bonds which the Secretary has failed to approve, the Corporation may proceed to sell such bonds on any date thereafter, without approval by the Secretary, in amounts sufficient to retire the interim obligations issued to the Treasury, and such interim obligations shall be retired from the proceeds of such bonds.

The TVA could sell its bonds either on competitive bids or by negotiations, and would be authorized to select trustees, registrars, and paying agents. Commercial audits would be authorized, in addition to audit by the General Accounting Office. The TVA could invest the proceeds of bonds, and other funds derived from its power program, in securities approved for investment of national bank funds and to deposit any of such funds in any Federal Reserve bank, or member bank. Bonds issued by the Corporation under this section shall contain a recital evidencing the regularity of the issuance and sale of such bonds and of their validity. The annual report of the Board shall contain a detailed statement of the operation of this section during the year.

Subsection 15d(d)

This subsection provides that bonds issued by the Corporation shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the United States. The Secretary of the Treasury or any other officer or agency having authority over or control of any such fiduciary, trust or public funds, may at any time sell any of the bonds of the Corporation acquired by them under this section. The bonds are not exempt from Federal income taxes, but the principal and interest would be subject to the customary exemption from State or local taxes, other than estate, inheritance, and gift taxes.

Subsection 15d(e)

This subsection provides that beginning with fiscal year 1961 the TVA will make semiannual payments to the Treasury of a return on the power investment financed from appropriations, such payments to be subordinated to the payments necessary to meet the Corporation's obligation on its bonds. "Appropriation investment" includes the total investment in power facilities, including construction in progress, at the beginning of each fiscal year derived from (1) appropriations, and (2) transfers from other Government agencies without reimbursement, less repayments made under the repayment provisions of the 1948 Appropriation Act or the TVA Act. The return on the appropriation investment is computed at variable rates equal to the average interest rate payable by the Treasury upon its total marketable obligations as of the beginning of each fiscal year in which payment is made. These include both long-term and short-term obligations, but exclude certain obligations in which the interest rate is not determined by the cost of money in the investment market.

This subsection also requires repayment by TVA to the Treasury in reduction of the appropriation investment, amounts of not less than $10 million per year for each of the first 5 fiscal years, $15 million annually for each of the next 5 fiscal years, and $20 million for each fiscal year thereafter, until a total of $1 billion of the appropriation has been repaid. In the event of drought or other factors beyond the control of the Corporation, payments into the Treasury may be deferred for not more than 2 years.

Subsection 15d(f)

Subsection (f) requires TVA to charge rates for the sale of power which will be adequate for the protection of the bondholders and the Federal Government. Such rates must produce sufficient revenues to provide funds for—

1. Operation, maintenance, and administration of its power system.
2. Payments to States and counties in lieu of taxes.
3. Debt service on outstanding bonds, including establishment of reserve or other necessary funds.
4. Payments to the Treasury as a return on the appropriation investment in power facilities.
5. Repayment to the Treasury for reduction of appropriation investment in power facilities.

6. Such additional margin as the TVA Board considers desirable to provide for investment in power assets, retirement of bonds before maturity, or additional reduction of the appropriation investment, having due regard to the primary objectives of the act, including the objective that power shall be sold at rates as low as are feasible.

As a protection of the investment of both the Government and the bondholders, the Corporation is required during each successive 5-year period, beginning with July 1 of the first full fiscal year after the effective date of this section, to apply net power proceeds in at least the amount of the depreciation accruals, amortization charges of power facilities, and net proceeds from any disposition of power facilities during said period, either to reduction of capital obligations, including bonds and appropriation investment, or to reinvestment in power assets.

Subsection 15d(g)

This subsection is intended to facilitate the making of lease and lease-purchase agreements by TVA, and eliminates the possibility of duplication of tax and in-lieu taxpayments on the same power facility. In that connection, the TVA is authorized (1) to sell, lease, or otherwise convey in the name of the United States any property held by TVA and (2) to perform necessary engineering and construction work and other services, and to enter into necessary contractual arrangements.

Subsection 15d(h)

This subsection affirms the intent of Congress that the new section of the act is construed to provide TVA with authority and flexibility to aid it in achieving the overall purposes and objectives of the Tennessee Valley Authority Act.

Section 2

This section amends existing law to make it possible for the national banks to buy or underwrite TVA bonds on a basis similar to that now in effect as to eligible bonds of the International Bank for Reconstruction and Development.

Section 3

This section amends the TVA Act to permit the Corporation to sell ferrophosphorus produced in its electric furnace phosphorus plants, outside the United States, its Territories, and possessions.

Changes in Existing Law

In compliance with subsection (4) of rule XXI of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown roman):

Matter Appearing Under the Subtitle "Independent Agencies and Corporations" in Title II of the Government Corporations Appropriation Act, 1948 (61 Stat. 576–577)

TITLE II

The following corporations and agencies, respectively, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the programs set forth in the Budget for the fiscal year 1948 for each such corporation or agency, except as hereinafter provided:

Independent Agencies and Corporations

Export-Import Bank of Washington: Not to exceed $800,000 (to be on an accrual basis) of the funds of the Export-Import Bank of Washington shall be available during the fiscal year 1948 for all administrative expenses of the Bank, including not to exceed $100 for periodicals, $200 for newspapers, and $200 for maps; health service program as authorized by the Act of August 8, 1946 (Public Law 658), and not to exceed $24,000 for temporary services, as authorized by section 15 of the Act of August 2, 1946 (Public Law 600): *Provided further*, That necessary expenses (including special services performed on a contract or fee basis, but not including other personal services) in connection with the acquisition, operation, maintenance, improvement, or disposition of any real or personal property belong to the Bank or in which it has an interest, including expenses of collections of pledged collateral, or the investigation or appraisal of any property in respect to which an application for a loan has been made, shall be considered as nonadministrative expenses for the purposes hereof.

Panama Railroad Company: Not to exceed $750,000 (to be computed on an accrual basis) of the funds of the Company shall be available during the fiscal year 1948 for its administrative expenses, including administrative services performed for the Company by other Government agencies, which shall be determined in accordance with the Company's prescribed accounting system in effect on July 1, 1946, and shall be exclusive of depreciation, payment of claims, contributions to employees retirement system, expenditures which the Company's prescribed accounting system requires to be capitalized or charged to cost of commodities acquired, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, and disposition of facilities and other property belonging to the company or in which it has an interest.

Tennessee Valley Associated Cooperatives, Inc.: Not to exceed $2,500 shall be available for administrative expenses related to liquidation: *Provided*, That appropriate steps shall be taken to secure the final dissolution and liquidation of the Corporation at the earliest practicable date and such dissolution and liquidation shall be under the supervision and direction of the Secretary of the Treasury.

[Tennessee Valley Authority: Not later than June 30, 1948, and not later than June 30 of each calendar year thereafter, until a total of $348,239,240 has been paid as herein provided, the board of directors of the Tennessee Valley Authority shall pay from net income derived

the immediately preceding fiscal year from power operations (such net income to be determined by deducting power operating expenses, allocated common expense, and interest on funded debt from total power operating revenues) not less than $2,500,000 of its outstanding bonded indebtedness to the Treasury of the United States exclusive of interest, and such a portion of the remainder of such net income into the Treasury of the United States as miscellaneous receipts as will, in the ten-year period ending June 30, 1958, and in each succeeding ten-year period until the aforesaid total of $348,239,240 shall have been paid, equal not less than a total of $87,059,810, including payment of bonded indebtedness exclusive of interest on such bonded indebtedness. Total payments of not less than $10,500,000 shall be made not later than June 30, 1948.

[Amounts equal to the total of all appropriations herein and hereafter made to the Tennessee Valley Authority for power facilities shall be paid by the board of directors thereof, in addition to the total of $348,239,240 specified in the foregoing paragraph, to the Treasury of the United States as miscellaneous receipts, such payments to be amortized over a period of not to exceed forty years after the year in which such facilities go into operation.

[None of the power revenues of the Tennessee Valley Authority shall be used for the construction of new power producing projects (except for replacement purposes) unless and until approved by Act of Congress.]

Tennessee Valley Authority Act (48 Stat. 58 (May 18, 1933), as Amended by 49 Stat. 1075 (August 31, 1935), 53 Stat. 1083 (July 26, 1939), 54 Stat. 611 (June 26, 1940), 55 Stat. 599 (July 18, 1941), 55 Stat. 775 (November 21, 1941), 66 Stat. 330 (July 3, 1952), 66 Stat. 591 (July 12, 1952), and 68 Stat. 968 (August 30, 1954), 16 U.S.C. secs. 831–831c, 831d, 831h–1, 831i–831dd)

AN ACT To improve the navigability and to provide for the flood control of the Tennessee River; to provide for reforestation and the proper use of marginal lands in the Tennessee Valley; to provide for the agricultural and industrial development of said valley; to provide for the national defense by the creation of a corporation for the operation of Government properties at and near Muscle Shoals in the State of Alabama, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of maintaining and operating the properties now owned by the United States in the vicinity of Muscle Shoals, Alabama, in the interest of the national defense and for agricultural and industrial development, and to improve navigation in the Tennessee River and to control the destructive flood waters in the Tennessee River and Mississippi River Basins, there is hereby created a body corporate by the name of the "Tennessee Valley Authority" (hereinafter referred to as the "Corporation"). The board of directors first appointed shall be deemed the incorporators, and the incorporation shall be held to have been effected from the date of the first meeting of the board. This Act may be cited as the "Tennessee Valley Authority Act of 1933."

SEC. 2 (a) The board of directors of the Corporation (hereinafter referred to as the "board") shall be composed of three members, to be appointed by the President, by and with the advice and consent

of the Senate. In appointing the members of the board, the President shall designate the chairman. All other officials, agents, and employees shall be designated and selected by the board.

(b) The terms of office of the members first taking office after the approval of this Act shall expire as designated by the President at the time of nomination, one at the end of the third year, one at the end of the sixth year, and one at the end of the ninth year, after the date of approval of this Act. A successor to a member of the board shall be appointed in the same manner as the original members and shall have a term of office expiring nine years from the date of the expiration of the term for which his predecessor was appointed.

(c) Any member appointed to fill a vacancy in the board occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

(d) Vacancies in the board so long as there shall be two members in office shall not impair the powers of the board to execute the functions of the Corporation, and two of the members in office shall constitute a quorum for the transaction of the business of the board.

(e) Each of the members of the board shall be a citizen of the United States, and shall receive a salary at the rate of $10,000 * a year, to be paid by the Corporation as current expenses. Each member of the board, in addition to his salary, shall be permitted to occupy as his residence one of the dwelling houses owned by the Government in the vicinity of Muscle Shoals, Alabama, the same to be designated by the President of the United States. Members of the board shall be reimbursed by the Corporation for actual expenses (including traveling and subsistence expenses) incurred by them in the performance of the duties vested in the board by this Act. No member of said board shall, during his continuance in office, be engaged in any other business, but each member shall devote himself to the work of the Corporation.

(f) No director shall have financial interest in any public-utility corporation engaged in the business of distributing and selling power to the public nor in any corporation engaged in the manufacture, selling, or distribution of fixed nitrogen or fertilizer, or any ingredients thereof, nor shall any member have any interest in any business that may be adversely affected by the success of the Corporation as a producer of concentrated fertilizers or as a producer of electric power.

(g) The board shall direct the exercise of all the powers of the Corporation.

(h) All members of the board shall be persons who profess a belief in the feasibility and wisdom of this Act.

SEC. 3. The board shall without regard to the provisions of Civil Service laws applicable to officers and employees of the United States, appoint such managers, assistant managers, officers, employees, attorneys, and agents, as are necessary for the transaction of its business, fix their compensation, define their duties, require bonds of such of them as the board may designate, and provide a system of organization to fix responsibility and promote efficiency. Any appointee of the board may be removed in the discretion of the board. No regular officer or

*NOTE.—Salaries of the Chairman and members of the Board of Directors were increased to $20,500 and $20,000, respectively (5 U.S.C. 2204(19); 2205(45)).

employee of the Corporation shall receive a salary in excess of that received by the members of the board.

All contracts to which the Corporation is a party and which require the employment of laborers and mechanics in the construction, alteration, maintenance, or repair of buildings, dams, locks, or other projects shall contain a provision that not less than the prevailing rate of wages for work of a similar nature prevailing in the vicinity shall be paid to such laborers or mechanics.

In the event any dispute arises as to what are the prevailing rates of wages, the question shall be referred to the Secretary of Labor for determination, and his decision shall be final. In the determination of such prevailing rate or rates, due regard shall be given to those rates which have been secured through collective agreement by representatives of employers and employees.

Where such work as is described in the two preceding paragraphs is done directly by the Corporation the prevailing rate of wages shall be paid in the same manner as though such work had been let by contract.

Insofar as applicable, the benefits of the Act entitled "An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes," approved September 7, 1916, as amended, shall extend to persons given employment under the provisions of this Act.

SEC. 4. Except as otherwise specifically provided in this Act, the Corporation—

(a) Shall have succession in its corporate name.

(b) May sue and be sued in its corporate name.

(c) May adopt and use a corporate seal, which shall be judicially noticed.

(d) May make contracts, as herein authorized.

(e) May adopt, amend, and repeal bylaws.

(f) May purchase or lease and hold such real and personal property as it deems necessary or convenient in the transaction of its business, and may dispose of any such personal property held by it.

The board shall select a treasurer and as many assistant treasurers as it deems proper, which treasurer and assistant treasurers shall give such bonds for the safekeeping of the securities and moneys of the said Corporation as the board may require: *Provided*, That any member of said board may be removed from office at any time by a concurrent resolution of the Senate and the House of Representatives.

(g) Shall have such powers as may be necessary or appropriate for the exercise of the powers herein specifically conferred upon the Corporation.

(h) Shall have power in the name of the United States of America to exercise the right of eminent domain, and in the purchase of any real estate or the acquisition of real estate by condemnation proceedings, the title to such real estate shall be taken in the name of the United States of America, and thereupon all such real estate shall be entrusted to the Corporation as the agent of the United States to accomplish the purposes of this Act.

(i) Shall have power to acquire real estate for the construction of dams, reservoirs, transmission lines, power houses, and other structures, and navigation projects at any point along the Tennessee River, or any of its tributaries, and in the event that the owner or owners of

such property shall fail and refuse to sell to the Corporation at a price deemed fair and reasonable by the board, then the Corporation may proceed to exercise the right of eminent domain, and to condemn all property that it deems necessary for carrying out the purposes of this Act, and all such condemnation proceedings shall be had pursuant to the provisions and requirements hereinafter specified, with reference to any and all condemnation proceedings: *Provided*, That nothing contained herein or elsewhere in this Act shall be construed to deprive the Corporation of the rights conferred by the Act of February 26, 1931 (46 Stat. 1422, ch. 307, secs. 1 to 5, inclusive), as now compiled in section 258a to 258e, inclusive, of Title 40 of the United States Code.

(j) Shall have power to construct such dams, and reservoirs, in the Tennessee River and its tributaries, as in conjunction with Wilson Dam, and Norris, Wheeler, and Pickwick Landing Dams, now under construction, will provide a nine-foot channel in the said river and maintain a water supply for the same, from Knoxville to its mouth, and will best serve to promote navigation on the Tennessee River and its tributaries and control destructive flood waters in the Tennessee and Mississippi River drainage basins; and shall have power to acquire or construct power houses, power structures, transmission lines, navigation projects, and incidental works in the Tennessee River and its tributaries, and to unite the various power installations into one or more systems by transmission lines. The directors of the Authority are hereby directed to report to Congress their recommendations not later than April 1, 1936, for the unified development of the Tennessee River system.

(k) Shall have power in the name of the United States—

(a) to convey by deed, lease, or otherwise, any real property in the possession of or under the control of the Corporation to any person or persons, for the purpose of recreation or use as a summer residence, or for the operation on such premises of pleasure resorts for boating, fishing, bathing, or any similar purpose;

(b) to convey by deed, lease, or otherwise, the possession and control of any such real property to any corporation, partnership, person, or persons for the purpose of erecting thereon docks and buildings for shipping purposes or the manufacture or storage thereon of products for the purpose of trading or shipping in transportation: *Provided*, That no transfer authorized herein in (b) shall be made without the approval of Congress: *And provided further*, That said Corporation, without further action of Congress, shall have power to convey by deed, lease, or otherwise, to the Ingalls Shipbuilding Corporation, a tract or tracts of land at or near Decatur, Alabama, and to the Commercial Barge Lines, Inc., a tract or tracts of land at or near Guntersville, Alabama;

(c) to transfer any part of the possession and control of the real estate now in possession of and under the control of said Corporation to any other department, agency, or instrumentality of the United States: *Provided, however*, That no land shall be conveyed, leased, or transferred, upon which there is located any permanent dam, hydroelectric powerplant, or munitions plant heretofore or hereafter built by or for the United States or for the Authority, except that this prohibition shall not apply to the

transfer of Nitrate Plant Numbered 1, at Muscle Shoals, Alabama, or to Waco Quarry: *And provided further*, That no transfer authorized herein in (a) or (c), except leases for terms of less than twenty years, shall be made without the approval of the President of the United States, if the property to be conveyed exceeds $500 in value; and

(d) to convey by warranty deed, or otherwise, lands, easements, and rights of way to States, counties, municipalities, school districts, railroad companies, telephone, telegraph, water and power companies, where any such conveyance is necessary in order to replace any such lands, easements, or rights-of-way to be flooded or destroyed as the result of the construction of any dam or reservoir now under construction by the Corporation, or subsequently authorized by Congress, and easements and rights of way upon which are located transmission or distribution lines. The Corporation shall also have power to convey or lease Nitrate Plant Numbered 1, at Muscle Shoals, Alabama, and Waco Quarry, with the approval of the War Department* and the President.

(l) Shall have power to advise and cooperate in the readjustment of the population displaced by the construction of dams, the acquisition of reservoir areas, the protection of watersheds, the acquisition of rights of way, and other necessary acquisitions of land, in order to effectuate the purposes of the Act; and may cooperate with Federal, State, and local agencies to that end.

SEC. 5. (a) To contract with commercial producers for the production of such fertilizers or fertilizer materials as may be needed in the Government's program of development and introduction in excess of that produced by Government plants. Such contracts may provide either for outright purchase of materials by the board or only for the payment of carrying charges on special materials manufactured at the board's request for its program.

(b) To arrange with farmers and farm organizations for large-scale practical use of the new forms of fertilizers under conditions permitting an accurate measure of the economic return they produce.

(c) To cooperate with National, State, district, or county experimental stations or demonstration farms, with farmers, landowners, and association of farmers or landowners, for the use of new forms of fertilizer or fertilizer practices during the initial or experimental period of their introduction, and for promoting the prevention of soil erosion by the use of fertilizers and otherwise.

(d) The board in order to improve and cheapen the production of fertilizer is authorized to manufacture and sell fixed nitrogen, fertilizer, and fertilizer ingredients at Muscle Shoals by the employment of existing facilities, by modernizing existing plants, or by any other process or processes that in its judgment shall appear wise and profitable for the fixation of atmospheric nitrogen or the cheapening of the production of fertilizer.

(e) Under the authority of this Act the board may make donations or sales of the product of the plant or plants operated by it to be fairly and equitably distributed through the agency of county demon-

*NOTE.—Sec. 205(b) of the National Security Act of 1947, as amended, changed the name of the War Department to the "Department of the Army." All other references in this act to "War Department" should be read as "Department of the Army."

stration agents, agricultural colleges, or otherwise as the board may direct, for experimentation, education, and introduction of the use of such products in cooperation with practical farmers so as to obtain information as to the value, effect, and best methods of their use.

(f) The board is authorized to make alterations, modifications, or improvements in existing plants and facilities, and to construct new plants.

(g) In the event it is not used for the fixation of nitrogen for agricultural purposes or leased, then the board shall maintain in standby condition nitrate plant numbered 2, or its equivalent, for the fixation of atmospheric nitrogen, for the production of explosives in the event of war or a national emergency, until the Congress shall by joint resolution release the board from this obligation, and if any part thereof be used by the board for the manufacture of phosphoric acid or potash, the balance of nitrate plant numbered 2 shall be kept in standby condition.

(h) To establish, maintain, and operate laboratories and experimental plants, and to undertake experiments for the purpose of enabling the Corporation to furnish nitrogen products for military purposes, and nitrogen and other fertilizer products for agricultural purposes in the most economical manner and at the highest standard of efficiency.

(i) To request the assistance and advice of any officer, agent, or employee of any executive department or of any independent office of the United States, to enable the Corporation the better to carry out its power successfully, and as far as practicable shall utilize the services of such officers, agents, and employees, and the President shall, if in his opinion, the public interest, service, or economy so require, direct that such assistance, advice, and service be rendered to the Corporation, and any individual that may be by the President directed to render such assistance, advice, and service shall be thereafter subject to the orders, rules, and regulations of the board: *Provided*, That any invention or discovery made by virtue of an incidental to such service by an employee of the Government of the United States serving under this section, or by any employee of the Corporation, together with any patents which may be granted thereon, shall be the sole and exclusive property of the Corporation, which is hereby authorized to grant such licenses thereunder as shall be authorized by the board: *Provided further*, That the board may pay to such inventor such sum from the income from the sale of license as it may deem proper.

(j) Upon the requisition of the Secretary of War* or the Secretary of the Navy to manufacture for and sell at cost to the United States or their nitrogenous content.

(k) Upon the requisition of the Secretary of War the Corporation shall allot and deliver without charge to the War Department so much power as shall be necessary in the judgment of said Department for use in operation of all locks, lifts, or other facilities in aid of navigation.

(l) To produce, distribute, and sell electric power, as herein particularly specified.

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*NOTE.—Sec. 205(a) of the National Security Act of 1947 changed the title of "Secretary of War" to "Secretary of the Army." All other references in this Act to "Secretary of War" should be read as "Secretary of the Army."

(m) No products of the Corporation (*except ferrophosphorus*) shall be sold for use outside of the United States, its Territories and possessions, except to the United States Government for the use of its Army and Navy, or to its allies in case of war or, until six months after the termination of the national emergency proclaimed by the President on December 16, 1950, or until such earlier date or dates as the Congress by concurrent resolution or the President may provide but in no event after April 1, 1953, to nations associated with the United States in defense activities.

(n) The President is authorized, within twelve months after the passage of this Act, to lease to any responsible farm organization or to any corporation organized by it nitrate plant numbered 2 and Waco Quarry, together with the railroad connecting said quarry with nitrate plant numbered 2, for a term not exceeding fifty years at a rental of not less than $1 per year, but such authority shall be subject to the express condition that the lessee shall use said property during the term of said lease exclusively for the manufacture of fertilizer and fertilizer ingredients to be used only in the manufacture of fertilizer by said lessee and sold for use as fertilizer. The said lessee shall covenant to keep said property in first-class condition, but the lessee shall be authorized to modernize said plant numbered 2 by the installation of such machinery as may be necessary, and is authorized to amortize the cost of said machinery and improvements over the term of said lease or any part thereof. Said lease shall also provide that the board shall sell to the lessee power for the operation of said plant at the same schedule of prices that it charges all other customers for power of the same class and quantity. Said lease shall also provide that, if the said lessee does not desire to buy power of the publicly owned plant, it shall have the right to purchase its power for the operation of said plant of the Alabama Power Company or any other publicly or privately owned corporation engaged in the generation and sale of electric power, and in such case the lease shall provide further that the said lessee shall have a free right-of-way to build a transmission line over Government property to said plant paying the actual expenses and damages, if any, incurred by the Corporation on account of such line. Said lease shall also provide that the said lessee shall covenant that during the term of said lease the said lessee shall not enter into any illegal monopoly, combination, or trust with any prvately owned corporation engaged in the manufacture, production, and sale of fertilizer with the object or effect of increasing the price of fertilizer to the farmer.

SEC. 6. In the appointment of officials and the selection of employees for said Corporation, and in the promotion of any such employees or officials, no political test or qualification shall be permitted or given consideration, but all such appointments and promotions shall be given and made on the basis of merit and efficiency. Any member of said board who is found by the President of the United States to be guilty of a violation of this section shall be removed from office by the President of the United States, and any appointee of said board who is found by the board to be guilty of a violation of this section shall be removed from office by said board.

SEC. 7. In order to enable the Corporation to exercise the powers and duties vested in it by this Act—

(a) The exclusive use, possession, and control of the United States nitrate plants numbered 1 and 2, including steam plants, located, respectively, at Sheffield, Alabama, and Muscle Shoals, Alabama, together with all real estate and buildings connected therewith, all tools and machinery, equipment, accessories, and materials belonging thereto, and all laboratories and plants used as auxiliaries thereto; the fixed-nitrogen research laboratory, the Waco limestone quarry, in Alabama, and Dam Numbered 2, located at Muscle Shoals, its powerhouse, and all hydroelectric and operating appurtenances (except the locks), and all machinery, lands, and buildings in connection therewith, and all appurtenances thereof, and all other property to be acquired by the Corporation in its own name or in the name of the United States of America, are hereby entrusted to the Corporation for the purposes of this Act.

(b) The President of the United States is authorized to provide for the transfer to the Corporation of the use, possession, and control of such other real or personal property of the United States as he may from time to time deem necessary and proper for the purposes of the Corporation as herein stated.

SEC. 8. (a) The Corporation shall maintain its principal office in the immediate vicinity of Muscle Shoals, Alabama. The Corporation shall be held to be an inhabitant and resident of the northern judicial district of Alabama within the meaning of the laws of the United States relating to the venue of civil suits.

(b) The Corporation shall at all times maintain complete and accurate books of accounts.

(c) Each member of the board, before entering upon the duties of his office, shall subscribe to an oath (or affirmation) to support the Constitution of the United States and to faithfully and impartially perform the duties imposed upon him by this Act.

SEC. 9. (a) The board shall file with the President and with the Congress, in December of each year, a financial statement and a complete report as to the business of the Corporation covering the preceding governmental fiscal year. This report shall include an itemized statement of the cost of power at each power station, the total number of employees and the names, salaries, and duties of those receiving compensation at the rate of more than $1,500 a year.

(b) All purchases and contracts for supplies or services, except for personal services, made by the Corporation, shall be made after advertising, in such manner and at such times sufficiently in advance of opening bids, as the board shall determine to be adequate to insure notice and opportunity for competition: *Provided*, That advertisement shall not be required when, (1) an emergency requires immediate delivery of the supplies or performance of the services; or (2) repair parts, accessories, supplemental equipment, or services are required for supplies or services previously furnished or contracted for; or (3) the aggregate amount involved in any purchase of supplies or procurement of services does not exceed $500; in which cases such purchases of supplies or procurement of services may be made in the open market in the manner common among the businessmen: *Provided further*, That in comparing bids and in making awards the board may consider such factors as relative quality and adaptability of supplies or services, the bidder's financial responsibility, skill, experi-

ence, record of integrity in dealing, ability to furnish repairs and maintenance services, the time of delivery or performance offered, and whether the bidder has complied with the specifications.

The Comptroller General of the United States shall audit the transactions of the Corporation at such times as he shall determine, but not less frequently than once each governmental fiscal year, with personnel of his selection. In such connection he and his representatives shall have free and open access to all papers, books, records, files, accounts, plants, warehouses, offices, and all other things, property, and places belonging to or under the control of or used or employed by the Corporation, and shall be afforded full facilities for counting all cash and verifying transactions with and balances in depositories. He shall make report of each such audit in quadruplicate, one copy for the President of the United States, one for the chairman of the board, one for public inspection at the principal office of the Corporation, and the other to be retained by him for the uses of the Congress: *Provided*, That such report shall not be made until the Corporation shall have had reasonable opportunity to examine the exceptions and criticisms of the Comptroller General or the General Accounting Office, to point out errors therein, explain or answer the same, and to file a statement which shall be submitted by the Comptroller General with his report. The expenses for each such audit shall be paid from any appropriation or appropriations for the General Accounting Office, and such part of such expenses as may be allocated to the cost of generating, transmitting, and distributing electric energy shall be reimbursed promptly by the Corporation as billed by the Comptroller General.

Nothing in this Act shall be construed to relieve the Treasurer or other accountable officers or employees of the Corporation from compliance with the provisions of existing law requiring the rendition of accounts for adjustment and settlement pursuant to section 236, Revised Statutes, as amended by section 305 of the Budget and Accounting Act, 1921 (42 Stat. 24), and accounts for all receipts and disbursements by or for the Corporation shall be rendered accordingly: *Provided*, That, subject only to the provisions of the Tennessee Valley Authority Act of 1933, as amended; the Corporation is authorized to make such expenditures and to enter into such contracts, agreements, and arrangements, upon such terms and conditions and in such manner as it may deem necessary, including the final settlement of all claims and litigation by or against the Corporation; and, notwithstanding the provisions of any other law governing the expenditure of public funds, the General Accounting Office, in the settlement of the accounts of the Treasurer or other accountable officer or employee of the Corporation, shall not disallow credit for, nor withhold funds because of, any expenditure which the board shall determine to have been necessary to carry out the provisions of said Act.

The Corporation shall determine its own system of administrative accounts and the forms and contents of its contracts and other business documents except as otherwise provided in the Tennessee Valley Authority Act of 1933, as amended.

SEC. 9a. The board is hereby directed in the operation of any dam or reservoir in its possession and control to regulate the stream flow primarily for the purposes of promoting navigation and controlling

floods. So far as may be consistent with such purposes, the board is authorized to provide and operate facilities for the generation of electric energy at any such dam for the use of the Corporation and for the use of the United States or any agency thereof, and the board is further authorized, whenever an opportunity is afforded, to provide and operate facilities for the generation of electric energy in order to avoid the waste of water power, to transmit and market such power as in this act provided, and thereby, so far as may be practicable, to assist in liquidating the cost or aid in the maintenance of the projects of the Authority.

SEC. 10. The board is hereby empowered and authorized to sell the surplus power not used in its operations, and for operation of locks and other works generated by it, to States, counties, municipalities, corporations, partnerships, or individuals, according to the policies hereinafter set forth; and to carry out said authority, the board is authorized to enter into contracts for such sale for a term not exceeding twenty years, and in the sale of such current by the board it shall give preference to States, counties, municipalities, and cooperative organizations of citizens or farmers, not organized or doing business for profit, but primarily for the purpose of supplying electricity to its own citizens or members: *Provided*, That all contracts made with private companies or individuals for the sale of power, which power is to be resold for a profit, shall contain a provision authorizing the board to cancel said contract upon five years' notice in writing, if the board needs said power to supply the demands of States, counties, or municipalities. In order to promote and encourage the fullest possible use of electric light and power on farms within reasonable distance of any of its transmission lines the board in its discretion shall have power to construct transmission lines to farms and small villages that are not otherwise supplied with electricity at reasonable rates, and to make such rules and regulations governing such sale and distribution of such electric power as in its judgment may be just and equitable: *Provided further*, That the board is hereby authorized and directed to make studies, experiments, and determinations to promote the wider and better use of electric power for agricultural and domestic use, or for small or local industries, and it may cooperate with State governments, or their subdivisions or agencies, with educational or research institutions, and with cooperatives or other organizations, in the application of electric power to the fuller and better balance development of the resources of the region: *Provided further*, That the board is authorized to include in any contract for the sale of power such terms and conditions, including resale rate schedules, and to provide for such rules and regulations as in its judgment may be necessary or desirable for carrying out the purposes of this Act, and in case the purchaser shall fail to comply with any such terms and conditions, or violate any such rules and regulations, said contract may provide that it shall be voidable at the election of the board: *Provided further*, That in order to supply farms and small villages with electric power directly as contemplated by this section, the board in its discretion shall have power to acquire existing electric facilities used in serving such farms and small villages: *And provided further*, That the terms "States," "counties," and "municipalities" as used in this Act shall be construed to include the public agencies of any of them unless the context requires a different construction.

SEC. 11. It is hereby declared to be the policy of the Government so far as practical to distribute and sell the surplus power generated at Muscle Shoals equitably among the States, counties, and municipalities within transmission distance. This policy is further declared to be that the projects herein provided for shall be considered primarily as for the benefit of the people of the section as a whole and particularly the domestic and rural consumers to whom the power can economically be made available, and accordingly that sale to and use by industry shall be a secondary purpose, to be utilized principally to secure a sufficiently high load factor and revenue returns which will permit domestic and rural use at the lowest possible rates and in such manner as to encourage increased domestic and rural use of electricity. It is further hereby declared to be the policy of the Government to utilize the Muscle Shoals properties so far as may be necessary to improve, increase, and cheapen the production of fertilizer and fertilizer ingredients by carrying out the provisions of this Act.

SEC. 12. In order to place the board upon a fair basis for making such contracts and for receiving bids for the sale of such power, it is hereby expressly authorized, either from appropriations made by Congress or from funds secured from the sale of such power, or from funds secured by the sale of bonds hereafter provided for, to construct, lease, purchase, or authorize the construction of transmission lines within transmission distance from the place where generated, and to interconnect with other systems. The board is also authorized to lease to any person, persons, or corporation the use of any transmission line owned by the Government and operated by the board, but no such lease shall be made that in any way interferes with the use of such transmission line by the board: *Provided*, That if any State, county, municipality, or other public or cooperative organization of citizens or farmers, not organized or doing business for profit, but primarily for the purpose of supplying electricity to its own citizens or members, or any two or more of such municipalities or organizations, shall construct or agree to construct and maintain a properly designed and built transmission line to the Government reservation upon which is located a Government generating plant, or to a main transmission line owned by the Government or leased by the board and under the control of the board, the board is hereby authorized and directed to contract with such State, county, municipality, or other organization, or two or more of them, for the sale of electricity for a term not exceeding thirty years; and in any such case the board shall give to such State, county, municipality, or other organization ample time to fully comply with any local law now in existence or hereafter enacted providing for the necessary legal authority for such State, county, municipality, or other organization to contract with the board for such power: *Provided further*, That all contracts entered into between the Corporation and any municipality or other political subdivision or cooperative organization shall provide that the electric power shall be sold and distributed to the ultimate consumer without discrimination as between consumers of the same class, and such contract shall be voidable at the election of the board if a discriminatory rate, rebate, or other special concession is made or given to any consumer or user by the municipality or other political subdivision or cooperative organization: *And pro-*

vided further, That as to any surplus power not so sold as above provided to States, counties, municipalities, or other said organizations, before the board shall sell the same to any person or corporation engaged in the distribution and resale of electricity for profit, it shall require said person or corporation to agree that any resale of such electric power by said person or corporation shall be made to the ultimate consumer of such electric power at prices that shall not exceed a scheduled fixed by the board from time to time as reasonable, just, and fair; and in case of any such sale, if an amount is charged the ultimate consumer which is in excess of the price so deemed to be just, reasonable, and fair by the board, the contract for such sale between the board and such distributor of electricity shall be voidable at the election of the board: *And provided further*, That the board is hereby authorized to enter into contracts with other power systems for the mutual exchange of unused excess power upon suitable terms, for the conservation of stored water, and as an emergency or breakdown relief.

SEC. 12a. In order (1) to facilitate the disposition of the surplus power of the Corporation according to the policies set forth in this Act; (2) to give effect to the priority herein accorded to States, counties, municipalities, and nonprofit organizations in the purchase of such power by enabling them to acquire facilities for the distribution of such power; and (3) at the same time to preserve existing distribution facilities as going concerns and avoid duplication of such facilities, the board is authorized to advise and cooperate with and assist, by extending credit for a period of not exceeding five years to, States, counties, municipalities and nonprofit organizations situated within transmission distance from any dam where such power is generated by the Corporation in acquiring, improving, and operating (a) existing distribution facilities and incidental works, including generating plants; and (b) interconnecting transmission lines; or in acquiring any interest in such facilities, incidental works, and lines.

SEC. 13. In order to render financial assistance to those States and local governments in which the power operations of the Corporation are carried on and in which the Corporation has acquired properties previously subject to State and local taxation, the board is authorized and directed to pay to said States, and the counties therein, for each fiscal year, beginning July 1, 1940, the following percentages of the gross proceeds derived from the sale of power by the Corporation for the preceding fiscal year as hereinafter provided, together with such additional amounts as may be payable pursuant to the provisions hereinafter set forth, said payments to constitute a charge against the power operations of the Corporation: For the fiscal year (beginning July 1) 1940, 10 per centum; 1941, 9 per centum; 1942, 8 per centum; 1943, 7½ per centum; 1944, 7 per centum; 1945, 6½ per centum; 1946, 6 per centum; 1947, 5½ per centum; 1948 and each fiscal year thereafter, 5 per centum. "Gross proceeds," as used in this section, is defined as the total gross proceeds derived by the Corporation from the sale of power for the preceding fiscal year, excluding power used by the Corporation or sold or delivered to any other department or agency of the Government of the United States for any purpose other than the resale thereof. The payments herein authorized are in lieu of taxation, and the Corporation, its property, franchises, and income,

are hereby expressly exempted from taxation in any manner or form by any State, county, municipality, or any subdivision or district thereof.

The payment for each fiscal year shall be apportioned among said States in the following manner: One-half of said payment shall be apportioned by paying to each State the percentage thereof which the gross proceeds of the power sales by the Corporation within said State during the preceding fiscal year bears to the total gross proceeds from all power sales by the Corporation during the preceding fiscal year; the remaining one-half of said payment shall be apportioned by paying to each State the percentage thereof which the book value of the power property held by the Corporation within said State at the end of the preceding fiscal year bears to the total book value of all such property held by the Corporation on the same date. The book value of power property shall include that portion of the investment allocated or estimated to be allocable to power: *Provided*, That the minimum annual payment to each State (including payments to counties therein) shall not be less than an amount equal to the two-year average of the State and local ad valorem property taxes levied against power property purchased and operated by the Corporation in said State and against that portion of reservoir lands related to dams constructed by or on behalf of the United States Government and held or operated by the Corporation and allocated or estimated to be allocable to power. The said two-year average shall be calculated for the last two tax years during which said property was privately owned and operated or said land was privately owned: *Provided further*, That the minimum annual payment to each State in which the Corporation owns and operates power property (including payments to counties therein) shall not be less than $10,000 in any case: *Provided further*, That the Corporation shall pay directly to the respective counties the two-year average of county ad valorem property taxes (including taxes levied by taxing districts within the respective counties) upon power property and reservoir lands allocable to power, determined as above provided, and all payments to any such county within a State shall be deducted from the payment otherwise due to such State under the provisions of this section. The determination of the board of the amounts due hereunder to the respective States and counties shall be final.

The payments above provided shall in each case be made to the State or county in equal monthly installments beginning not later than July 31, 1940.

Nothing herein shall be construed to limit the authority of the Corporation in its contracts for the sale of power to municipalities, to permit or provide for the resale of power at rates which may include an amount to cover tax-equivalent payments to the municipality in lieu of State, county, and municipal taxes upon any distribution system or property owned by the municipality, or any agency thereof, conditioned upon a proper distribution by the municipality of any amounts collected by it in lieu of State or county taxes upon any such distribution system or property; it being the intention of Congress that either the municipality or the State in which the municipality is situated shall provide for the proper distribution to the State and county of any portion of tax equivalent so collected by the municipal-

ity in lieu of State or county taxes upon any such distribution system or property.

The Corporation shall, not later than January 1, 1945, submit to the Congress a report on the operation of the provisions of this section, including a statement of the distribution to the various States and counties hereunder; the effect of the operation of the provisions of the section on State and local finances; an appraisal of the benefits of the program of the Corporation to the States and counties receiving payments hereunder, and the effect of such benefits in increasing taxable values within such States and counties; and such other data, information, and recommendations as may be pertinent to future legislation.

SEC. 14. The board shall make a thorough investigation as to the present value of Dam Numbered 2, and the steamplants at nitrate plant numbered 1, and nitrate plant numbered 2, and as to the cost of Cove Creek Dam, for the purpose of ascertaining how much of the value or the cost of said properties shall be allocated and charged up to (1) flood control, (2) navigation, (3) fertilizer, (4) national defense, and (5) the development of power. The findings thus made by the board, when aprpoved by the President of the United States, shall be final, and such findings shall thereafter be used in all allocation of value for the purpose of keeping the book value of said properties. In like manner, the cost and book value of any dams, steamplants, or other similar improvements hereafter constructed and turned over to said board for the purpose of control and management shall be ascertained and allocated.

The board shall, on or before January 1, 1937, file with Congress a statement of its allocation of the value of all such properties turned over to said board, and which have been completed prior to the end of the preceding fiscal year, and shall thereafter in its annual report to Congress file a statement of its allocation of the value of such properties as have been completed during the preceding fiscal year.

For the purpose of accumulating data useful to the Congress in the formulation of legislative policy in matters relating to the generation, transmission, and distribution of electric energy and the production of chemicals necessary to national defense and useful in agriculture, and to the Federal Power Commission and other Federal and State agencies, and to the public, the board shall keep complete accounts of its costs of generation, transmission, and distribution of electric energy and shall keep a complete account of the total cost of generating and transmission facilities constructed or otherwise acquired by the Corporation, and of producing such chemicals, and a description of the major components of such costs according to such uniform system of accounting for public utilities as the Federal Power Commission has, and if it have none, then it is hereby empowered and directed to prescribe such uniform system of accounting, together with records of such other physical data and operating statistics of the Authority as may be helpful in determining the actual cost and value of services, and the practices, methods, facilities, equipment, appliances, and standards and sizes, types, location, and geographical and economic integration of plants and systems best suited to promote the public interest, efficiency, and the wider and more economical use of electric energy. Such data shall be reported to the Congress by the

board from time to time with appropriate analyses and recommendations, and, so far as practicable, shall be made available to the Federal Power Commission and other Federal and States agencies which may be concerned with the administration of legislation relating to the generation, transmission, or distribution of electric energy and chemicals useful to agriculture. It is hereby declared to be the policy of this Act that, in order, as soon as practicable, to make the power projects self-supporting and self-liquidating, the surplus power shall be sold at rates which, in the opinion of the board, when applied to the normal capacity of the Authority's power facilities will produce gross revenues in excess of the cost of production of said power and in addition to the statement of the cost of power at each power station as required by section 9 (a) of the "Tennessee Valley Act of 1933", the board shall file with each annual report, a statement of the total cost of all power generated by it at all power stations during each year, the average cost of such power per kilowatt hour, the rates at which sold, and to whom sold, and copies of all contracts for the sale of power.

SEC. 15. In the construction of any future dam, steam plant, or other facility, to be used in whole or in part for the generation or transmission of electric power the board is hereby authorized and empowered to issue on the credit of the United States and to sell serial bonds not exceeding $50,000,000 in amount, having a maturity not more than fifty years from the date of issue thereof, and bearing interest not exceeding 3½ per centum per annum. Said bonds shall be issued and sold in amounts and prices approved by the Secretary of the Treasury, but all such bonds as may be so issued and sold shall have equal rank. None of said bonds shall be sold below par, and no fee, commission, or compensation whatever shall be paid to any person, firm, or corporation for handling, negotiating the sale, or selling the said bonds. All of such bonds so issued and sold shall have all the rights and privileges accorded by law to Panama Canal bonds, authorized by section 8 of the Act of June 28, 1902, chapter 1302, as amended by the Act of December 21, 1905 (ch. 3, sec. 1, 34 Stat. 5), as now compiled in section 743 of title 31 of the United States Code. All funds derived from the sale of such bonds shall be paid over to the Corporation.

SEC. 15a. With the approval of the Secretary of the Treasury, the Corporation is authorized to issue bonds not to exceed in the aggregate 50,000,000 outstanding at any one time, which bonds may be sold by the Corporation to obtain funds to carry out the provisions of section 12a of this Act. Such bonds shall be in such forms and denominations, shall mature within such periods not more than fifty years from the date of their issue, may be redeemable at the option of the Corporation before maturity in such manner as may be stipulated therein, shall bear such rates of interest not exceeding 3½ per centum per annum, shall be subject to such terms and conditions, shall be issued in such manner and amount, and sold at such prices, as may be prescribed by the Corporation, with the approval of the Secretary of the Treasury: *Provided*, That such bonds shall not be sold at such prices or on such terms as to afford an investment yield to the holders in excess of 3½ per centum per annum. Such bonds shall be fully and unconditionally guaranteed both as to interest and principal by the United States, and such guaranty shall be expressed on the face

thereof, and such bonds shall be lawful investments, and may be accepted as security, for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof. In the event that the Corporation should not pay upon demand, when due, the principal of, or interest on, such bonds, the Secretary of the Treasury shall pay to the holder the amount thereof, which is hereby authorized to be appropriated out of any moneys in the Treasury not otherwise appropriated, and thereupon to the extent of the amount so paid the Secretary of the Treasury shall succeed to all the rights of the holders of such bonds. The Secretary of the Treasury, in his discretion, is authorized to purchase any bonds issued hereunder, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities hereafter issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act, as amended, are extended to include any purchases of the Corporation's bonds hereunder. The Secretary of the Treasury may, at any time, sell any of the bonds of the Corporation acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of the bonds of the Corporation shall be treated as public-debt transactions of the United States. With the approval of the Secretary of the Treasury, the Corporation shall have power to purchase such bonds in the open market at any time and at any price. No bonds shall be issued hereunder to provide funds or bonds necessary for the performance of any proposed contract negotiated by the Corporation under the authority of section 12a of this Act until the proposed contract shall have been submitted to and approved by the Federal Power Commission. When any such proposed contract shall have been submitted to the said Commission, the matter shall be given precedence and shall be in every way expedited and the Commission's determination of the matter shall be final. The authority of the Corporation to issue bonds hereunder shall expire at the end of five years from the date when this section as amended herein becomes law, except that such bonds may be issued at any time after the expiration of said period to provide bonds or funds necessary for the performance of any contract entered into by the Corporation, prior to the expiration of said period under the authority of section 12a of this Act.

SEC. 15b. No bonds shall be issued by the Corporation after the date of enactment of this section under section 15 or section 15a.

SEC. 15c. With the approval of the Secretary of the Treasury the Corporation is authorized, after the date of enactment of this section, to issue bonds not to exceed in the aggregate $61,500,000. Such bonds may be sold by the Corporation to obtain funds which may be used for the following purposes only:

(1) Not to exceed $46,000,000 may be used for the purchase of electric utility properties of the Tennessee Electric Power Company and Southern Tennessee Power Company as contemplated in the contract between the Corporation and the Commonwealth and Southern Corporation and others, dated as of May 12, 1939.

(2) Not to exceed $6,500,000 may be used for the purchase and rehabilitation of electric utility properties of the Alabama Power

Company and Mississippi Power Company in the following named counties in northern Alabama and northern Mississippi: The counties of Jackson, Madison, Limestone, Lauderdale, Colbert, Lawrence, Morgan, Marshall, De Kalb, Cherokee, Cullman, Winston, Franklin, Marion, and Lamar in northern Alabama, and the counties of Calhoun, Chickasaw, Monroe, Clay, Lowndes, Oktibbeha, Choctaw, Webster, Noxubee, Winston, Neshoba, and Kemper in northern Mississippi.

(3) Not to exceed $3,500,000 may be used for rebuilding, replacing, and repairing electric utility properties purchased by the Corporation in accordance with the foregoing provisions of this section.

(4) Not to exceed $3,500,000 may be used for constructing electric transmission lines, substations, and other electrical facilities necessary to connect the electric utility properties purchased by the Corporation in accordance with the foregoing provisions of this section with the electric power system of the Corporation.

(5) Not to exceed $2,000,000 may be used for making loans under section 12a to States, counties, municipalities, and nonprofit organizations to enable them to purchase any electric utility properties referred to in the contract between the Corporation and the Commonwealth and Southern Corporation and others, dated as of May 12, 1939, or any electric utility properties of the Alabama Power Company or Mississippi Power Company in any of the counties in northern Alabama or northern Mississippi named in paragraph (2).

The Corporation shall file with the President and with the Congress in December of each year a financial statement and complete report as to the expenditure of funds derived from the sale of bonds under this section covering the period not covered by any such previous statement or report. Such bonds shall be in such forms and denominations, shall mature within such periods not more than fifty years from the date of their issue, may be redeemable at the option of the Corporation before maturity in such manner as may be stipulated therein, shall bear such rates of interest not exceeding 3½ per centum per annum, shall be subject to such terms and conditions, shall be issued in such manner and amount, and sold at such prices, as may be prescribed by the Corporation with the approval of the Secretary of the Treasury: *Provided*, That such bonds shall not be sold at such prices or on such terms as to afford an investment yield to the holders in excess of 3½ per centum per annum. Such bonds shall be fully and unconditionally guaranteed both as to interest and principal by the United States, and such guaranty shall be expressed on the face thereof, and such bonds shall be lawful investments, and may be accepted as security, for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof. In the event that the Corporation should not pay upon demand when due, the principal of, or interest on, such bonds, the Secretary of the Treasury shall pay to the holder the amount thereof, which is hereby authorized to be appropriated out of any moneys in the Treasury not otherwise appropriated, and thereupon to the extent of the amount so paid the Secretary of the Treasury shall succeed to all the rights of the holders of

such bonds. The Secretary of the Treasury, in his discretion, is authorized to purchase any bonds issued hereunder, and for such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds from the sale of any securities hereafter issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act, as amended, are extended to include any purchases of the Corporation's bonds hereunder. The Secretary of the Treasury may, at any time, sell any of the bonds of the Corporation acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of the bonds of the Corporation shall be treated as public-debt transactions of the United States. With the approval of the Secretary of the Treasury, the Corporation shall have power to purchase such bonds in the open market at any time and at any price. None of the proceeds of the bonds shall be used for the performance of any proposed contract negotiated by the Corporation under the authority of section 12a of this Act until the proposed contract shall have been submitted to and approved by the Federal Power Commission. When any such proposed contract shall have been submitted to the said Commission, the matter shall be given precedence and shall be in every way expedited and the Commission's determination of the matter shall be final. The authority of the Corporation to issue bonds under this section shall expire January 1, 1941, except that if at the time such authority expires the amount of bonds issued by the Corporation under this section is less than $61,500,000 the Corporation may, subject to the foregoing provisions of this section, issue, after the expiration of such period, bonds in an amount not in excess of the amount by which the bonds so issued prior to the expiration of such period is less than $61,500,000 for refunding purposes, or, subject to the provisions of paragraph (5) of this section (limiting the purposes for which loans under section 12a of funds derived from bond proceeds may be made) to provide funds found necessary in the performance of any contract entered into by the Corporation prior to the expiration of such period, under the authority of section 12a.

Sec. 15d. (*a*) *The Corporation is authorized to issue and sell bonds, notes, and other evidences of indebtedness* (*hereinafter collectively referred to as "bonds"*) *in an amount not exceeding $750,000,000 outstanding at any one time to assist in financing its power program and to refund such bonds. The Corporation may, in performing functions authorized by this Act, use the proceeds of such bonds for the construction, acquisition, enlargement, improvement, or replacement of any plant or other facility used or to be used for the generation or transmission of electric power* (*including the portion of any multiple-purpose structure used or to be used for power generation*)*; as may be required in connection with the lease, lease-purchase, or any contract for the power output of any such plant or other facility; and for other purposes incidental thereto. Unless otherwise specifically authorized by Act of Congress the Corporation shall make no contracts for the sale of power* (*except with such States, counties, municipalities, corporations, partnerships, or individuals with which the Corporation had such contracts on July 1, 1957*) *which would make the Corporation a source of power supply for any City which owned its power distribution system on July 1, 1957, having a popu-*

lation in excess of ten thousand, or to any other City having a population in excess of five thousand, according to the latest Federal census, or which would in any event, increase by more than two and one-half percent (or two thousand square miles, whichever is the lesser, no part of which may be in a State not now served by the Corporation nor more than five hundred square miles of which may be in any one State now served by the Corporation or its customers), the area for which the Corporation was the primary source of power supply on July 1, 1957: Provided, however, That in addition to the extension of the service area authorized in this subsection, nothing herein contained shall prevent the Corporation from continuing to supply power to Dyersburg, Tennessee, and Covington, Tennessee, or from entering into contracts to supply or from supplying power to the cities of Paducah, Kentucky; Princeton, Kentucky; Glasgow, Kentucky; Fulton, Kentucky; Monticello, Kentucky; Chickamauga, Georgia; Ringgold, Georgia; Oak Ridge, Tennessee; and South Fulton, Tennessee; or agencies thereof; or from entering into contracts to supply or from supplying power for the Naval Auxiliary Air Station in Lauderdale and Kemper Counties, Mississippi, through the facilities of the East Mississippi Electric Power Association, and for the rural customers in the areas now served by the said East Mississippi Electric Power Association: Provided further, That nothing herein contained shall prevent the transmission of TVA power to the Atomic Energy Commission or the Department of Defense or any agency thereof, on certification by the President of the United States that an emergency defense need for such power exists. Nothing in this Act shall affect the present rights of the parties in any existing lawsuits involving efforts of towns in the same general area where TVA power is supplied to obtain TVA power.

The principal of and interest on said bonds shall be payable solely from the Corporation's net power proceeds as hereinafter defined. Net power proceeds are defined for purposes of this section as the remainder of the Corporation's gross power revenues after deducting the costs of operating, maintaining, and administering its power properties (including costs applicable to that portion of its multiple-purpose properties allocated to power) and payments to States and counties in lieu of taxes but before deducting depreciation accruals or other charges representing the amortization of capital expenditures, plus the net proceeds of the sale or other disposition of any power facility or interest therein, and shall include reserve or other funds created from such sources. Notwithstanding the provisions of section 26 of this Act or any other provision of law, the Corporation may pledge and use its net power proceeds for payment of the principal of and interest on said bonds, for purchase or redemption thereof, and for other purposes incidental thereto, including creation of reserve funds and other funds which may be similarly pledged and used, to such extent and in such manner as it may deem necessary or desirable. The Corporation is authorized to enter into binding covenants with the holders of said bonds—and with the trustee, if any—under any indenture, resolution, or other agreement entered into in connection with the issuance thereof (any such agreement being hereinafter referred to as a "bond contract") with respect to the establishment of reserve funds and other funds, adequacy of charges for supply of powers, application and use

of net power proceeds, stipulations concerning the subsequent issuance of bonds or the execution of leases or lease-purchase agreements relating to power properties, and such other matters, not inconsistent with this Act, as the Corporation may deem necessary or desirable to enhance the marketability of said bonds. The issuance and sale of bonds by the Corporation and the expenditure of bond proceeds for the purposes specified herein, including the addition of generating units to existing power-producing projects and the construction of additional power-producing projects, shall not be subject to the requirements or limitations of any other law: Provided, That with the budget estimates transmitted by the President to the Congress, the President shall transmit the power construction program of the Corporation as presented to him and recommended by the Corporation, together with any recommendation he may deem appropriate.

Neither bond proceeds nor power revenues received by the Corporation shall be used to initiate the construction of new power producing projects (except for replacement purposes and except the first such project begun after the effective date of this section) until the construction program of the Corporation shall have been before Congress in session for ninety calendar days. In the absence of any modifying action by a concurrent resolution of the Congress within the ninety days, such projects will be deemed to have congressional approval.

(b) Bonds issued by the Corporation hereunder shall not be obligations of, nor shall payment of the principal thereof or interest thereon be guaranteed by, the United States. Proceeds realized by the Corporation from issuance of such bonds and from power operations and the expenditure of such proceeds shall not be subject to apportionment under the provisions of Revised Statutes 3679, as amended (31 U.S.C. 665).

(c) Bonds issued by the Corporation under this section shall be negotiable instruments unless otherwise specified therein, shall be in such forms and denominations, shall be sold at such times and in such amounts, shall mature at such time or times not more than fifty years from their respective dates, shall be sold at such prices, shall bear such rates of interest, may be redeemable before maturity at the option of the Corporation in such manner and at such times and redemption premiums, may be entitled to such relative priorities of claim on the Corporation's net power proceeds with respect to principal and interest payments, and shall be subject to such other terms and conditions, as the Corporation may determine: Provided, That at least ten days before selling each issue of bonds hereunder (exclusive of any commitment shorter than one year) the Corporation shall advise the Secretary of the Treasury as to the amount, proposed date of sale, maturities, terms and conditions and expected rates of interest of the proposed issue in the fullest detail possible and, if the Secretary shall so request, shall consult with him or his designee thereon, but the sale and issuance of such bonds shall not be subject to approval by the Secretary of the Treasury except as to the time of issuance and the maximum rates of interest to be borne by the bonds: Provided further, That if the Secretary of the Treasury does not approve a proposed issue of bonds hereunder within three working days following the date on which he is advised of the proposed sale, the Corporation may issue to the Secretary interim obligations in the

amount of the proposed issue, which the Secretary is directed to purchase. In case the Corporation determines that a proposed issue of bonds hereunder cannot be sold on reasonable terms, it may issue to the Secretary interim obligations which the Secretary is authorized to purchase. Notwithstanding the foregoing provisions of this subsection, obligations issued by the Corporation to the Secretary shall not exceed $150,000,000 outstanding at any one time, shall mature on or before one year from date of issue, and shall bear interest equal to the average rate (rounded to the nearest one-eighth of a percent) on outstanding marketable obligations of the United States with maturities from dates of issue of one year or less as of the close of the month preceeding the issuance of the obligations of the Corporation. If agreement is not reached within eight months concerning the issuance of any bonds which the Secretary has failed to approve, the Corporation may nevertheless proceed to sell such bonds on any date thereafter without approval by the Secretary in amount sufficient to retire the interim obligations issued to the Treasury and such interim obligations shall be retired from the proceeds of such bonds. For the purpose of any purchase of the Corporation's obligations the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under the Second Liberty Bond Act, as amended, are extended to include any purchases of the Corporation's obligations hereunder. The Corporation may sell its bonds by negotiation or on the basis of competitive bids, subject to the right, if reserved, to reject all bids; may designate trustees, registrars, and paying agents in connection with said bonds and the issuance thereof; may arrange for audits of its accounts and for reports concerning its financial condition and operations by certified public accounting firms (which audits and reports shall be in addition to those required by sections 105 and 106 of the Act of December 6, 1945 (59 Stat. 599; 31 U.S.C. 850–851), may, subject to any covenants contained in any bond contract, invest the proceeds of any bonds and other funds under its control which derive from or pertain to its power program in any securities approved for investment of national bank funds and deposit said proceeds and other funds, subject to withdrawal by check or otherwise, in any Federal Reserve Bank or bank having membership in the Federal Reserve System; and may perform such other acts not prohibited by law as it deems necessary or desirable to accomplish the purposes of this section. Bonds issued by the Corporation hereunder shall contain a recital that they are issued pursuant to this section, and such recital shall be conclusive evidence of the regularity of the issuance and sale of such bonds and of their validity. The annual report of the Board filed pursuant to section 9 of this Act shall contain a detailed statement of the operation of the provisions of this section during the year.

(d) Bonds issued by the Corporation hereunder shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the United States. The Secretary of the Treasury or any other officer or agency having authority over or control of any such fiduciary, trust, or public funds,

may at any time sell any of the bonds of the Corporation acquired by them under this section. Bonds issued by the Corporation hereunder shall be exempt both as to principal and interest from all taxation now or hereafter imposed by any State or local taxing authority except estate, inheritance, and gift taxes.

(e) From net power proceeds in excess of those required to meet the Corporation's obligations under the provisions of any bond or bond contract, the Corporation shall, beginning with fiscal year 1961, make payments into the Treasury as miscellaneous receipts on or before December 31 and June 30, of each fiscal year as a return on the appropriation investment in the Corporation's power facilities, plus a repayment sum of not less than $10,000,000 for each of the first five fiscal years, $15,000,000 for each of the next five fiscal years, and $20,000,000 for each fiscal year thereafter, which repayment sum shall be applied to reduction of said appropriation investment until a total of $1,000,000,000 of said appropriation investment shall have been repaid. The said appropriation investment shall consist, in any fiscal year, of that part of the Corporation's total investment assigned to power as of the beginning of the fiscal year (including both completed plant and construction in progress) which has been provided from appropriations or by transfers of property from other Government agencies without reimbursement by the Corporation, less repayments of such appropriation investment made under title II of the Government Corporations Appropriation Act, 1948, this Act, or other applicable legislation. The payment as a return on the appropriation investment in each fiscal year shall be equal to the computed average interest rate payable by the Treasury upon its total marketable public obligations as of the beginning of said fiscal year applied to said appropriation investment. Payments due hereunder may be deferred for not more than two years when, in the judgment of the Board of Directors of the Corporation, such payments cannot feasibly be made because of inadequacy of funds occasioned by drought, poor business conditions, emergency replacements, or other factors beyond the control of the Corporation.

(f) The Corporation shall charge rates for power which will produce gross revenues sufficient to provide funds for operaton, maintenance, and administration of its power system; payments to States and counties in lieu of taxes; debt service on outstanding bonds, including provision and maintenance of reserve funds and other funds established in connection therewith; payments to the Treasury as a return on the appropriation investment pursuant to subsection (e) hereof; payment to the Treasury of the repayment sums specified in subsection (e) hereof; and such additional margin as the Board may consider desirable for investment in power system assets, retirement of outstanding bonds in advance of maturity, additional reduction of appropriation investment, and other purposes connected with the Corporation's power business, having due regard for the primary objectives of the Act, including the objective that power shall be sold at rates as low as are feasible. In order to protect the investment of holders of the Corporation's securities and the appropriation investment as defined in subsection (e) hereof, the Corporation, during each successive five-year period beginning with the five-year period which commences on July 1 of the first full fiscal year after the effective date

of this section, shall apply net power proceeds either in reduction (directly or through payments into reserve or sinking funds) of its capital obligations, including bonds and the appropriation investment, or to reinvestment in power assets, at least to the extent of the combined amount of the aggregate of the depreciation accruals and other charges representing the amortization of capital expenditures applicable to its power properties plus the net proceeds realized from any disposition of power facilities in said period.

(g) Power generating and related facilities operated by the Corporation under lease and lease-purchase agreements shall constitute power property held by the Corporation within the meaning of section 13 of this Act, but that portion of the payment due for any fiscal year under said section 13 to a State where such facilities are located which is determined or estimated by the Board to result from holding such facilities or selling electric energy generated thereby shall be reduced by the amount of any taxes or tax equivalents applicable to such fiscal year paid by the owners or others on account of said facilities to said States and to local taxing jurisdiction therein. In connection with the construction of a generating plant or other facilities under an agreement providing for lease or purchase of said facilities or any interest therein by or on behalf of the Corporation, or for the purchase of the output thereof, the Corporation may convey, in the name of the United States by deed, lease, or otherwise, any real property in its possession or control, may perform necessary engineering and construction work and other services, and may enter into any necessary contractual arrangements.

(h) It is hereby declared to be the intent of this section to aid the Corporation in discharging its responsibility for the advancement of the national defense and the physical, social and economic development of the area in which it conducts its operations by providing it with adequate authority and administrative flexibility to obtain the necessary funds with which to assure an ample supply of electric power for such purposes by issuance of bonds and as otherwise provided herein, and this section shall be construed to effectuate such intent.

SEC. 16. The board, whenever the President deems it advisable, is hereby empowered and directed to complete Dam Numbered 2 at Muscle Shoals, Alabama, and the steam plant at nitrate plant numbered 2, in the vicinity of Muscle Shoals, by installing in Dam Numbered 2 the additional power units according to the plans and specifications of said dam, and the additional power unit in the steam plant at nitate plant numbered 2.

SEC. 17. The Secretary of War, or the Secretary of the Interior, is hereby authorized to construct, either directly or by contract to the lowest reasonable bidder, after due advertisement, a dam in and across Clinch River in the State of Tennessee, which has by long custom become known and designated as the Cove Creek Dam, together with a transmission line from Muscle Shoals, according to the latest and most approved designs, including power house and hydroelectric installations and equipment for the generation of power, in order that the waters of the said Clinch River may be impounded and stored above said dam for the purpose of increasing and regulating the flow of the Clinch River and the Tennessee River below, so that the maxi-

mum amount of primary power may be developed at Dam Numbered 2 and at any and all other dams below the said Cove Creek Dam: *Provided, however*, That the President is hereby authorized by appropriate order to direct the employment by the Secretary of War, or by the Secretary of the Interior, of such engineer or engineers as he may designate, to perform such duties and obligations as he may deem proper, either in the drawing or plans and specifications for said dam, or to perform any other work in the building or construction of the same. The President may, by such order, place the control of the construction of said dam in the hands of such engineer or engineers taken from private life as he may desire: *And provided further*, That the President is hereby expressly authorized, without regard to the restriction or limitation of any other statute, to select attorneys and assistants for the purpose of making any investigation he may deem proper to ascertain whether, in the control and management of Dam Numbered 2, or any other dam or property owned by the Government in the Tennessee River Basin, or in the authorization of any improvement therein, there has been any undue or unfair advantage given to private persons, partnerships, or corporations, by any officials or employees of the Government, or whether in any such matters the Government has been injured or unjustly deprived of any of its rights.

SEC. 18. In order to enable and empower the Secretary of War, the Secretary of the Interior, or the board to carry out the authority hereby conferred, in the most economical and efficient manner, he or it is hereby authorized and empowered in the exercise of the powers of national defense in aid of navigation, and in the control of the flood waters of the Tennessee and Mississippi Rivers, constituting channels of interstate commerce, to exercise the right of eminent domain for all purposes of this Act, and to condemn all lands, easements, rights of way, and other area necessary in order to obtain a site for said Cove Creek Dam, and the flowage rights for the reservoir of water above said dam, and to negotiate and conclude contracts with States, counties, municipalities, and all State agencies and with railroads, railroad corporations, common carriers, and all public utility commissions and any other person, firm, or corporation, for the relocation of railroad tracks, highways, highway bridges, mills, ferries, electric-light plants, and any and all other properties, enterprises, and projects whose removal may be necessary in order to carry out the provisions of this Act. When said Cove Creek Dam, transmission line, and power house shall have been completed, the possession, use, and control thereof shall be intrusted to the Corporation for use and operation in connection with the general Tennessee Valley project, and to promote flood control and navigation in the Tennessee River.

SEC. 19. The Corporation, as an instrumentality and agency of the Government of the United States for the purpose of executing its constitutional powers shall have access to the Patent Office* of the United States for the purpose of studying, ascertaining, and copying all methods, formulae, and scientific information (not including ac-

*NOTE.—The functions of all officers of the Department of Commerce and all functions of all agencies and employees of such Department were, with a few exceptions, transferred to the Secretary of Commerce, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees (1950 Reorg. Plan No. 5, §§ 1 and 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263). The Patent Office, referred to in this section, is an agency of the Department of Commerce, and the Commissioner of Patents, referred to in this section, is an officer of such Department.

cess to pending applications for patents) necessary to enable the Corporation to use and employ the most efficacious and economical process for the production of fixed nitrogen, or any essential ingredient of fertilizer, or any method of improving and cheapening the production of hydroelectric power, and any owner of a patent whose patent rights may have been thus in any way copied, used, infringed, or employed by the exercise of this authority by the Corporation shall have as the exclusive remedy a cause of action against the Corporation to be instituted and prosecuted on the equity side of the appropriate district court of the United States, for the recovery of reasonable compensation for such infringement. The Commissioner of Patents * shall furnish to the Corporation, at its request and without payment of fees, copies of documents on file in his office: *Provided*, That the benefits of this section shall not apply to any art, machine, method of manufacture, or composition of matter, discovered or invented by such employee during the time of his employment or service with the Corporation or with the Government of the United States.

SEC. 20. The Government of the United States hereby reserves the right, in case of war or national emergency declared by Congress, to take possession of all or any part of the property described or referred to in this Act for the purpose of manufacturing explosives or for other war purposes; but, if this right is exercised by the Government, it shall pay the reasonable and fair damages that may be suffered by any party whose contract for the purchase of electric power or fixed nitrogen or fertilizer ingredients is hereby violated, after the amount of the damages has been fixed by the United States Court of Claims in proceedings instituted and conducted for that purpose under rules prescribed by the court.

SEC. 21. (a) All general penal statutes relating to the larceny, embezzlement, conversion, or to the improper handling, retention, use, or disposal of public moneys or property of the United States, shall apply to the moneys and property of the Corporation and to moneys and properties of the United States entrusted to the Corporation.

(b) Any person who, with intent to defraud the Corporation, or to deceive any director, officer, or employee of the Corporation or any officer or employee of the United States (1) makes any false entry in any book of the Corporation, or (2) makes any false report or statement for the Corporaton, shall, upon conviction thereof, be fined not more than $10,000 or imprisoned not more than five years, or both.

(c) Any person who shall receive any compensation, rebate, or reward, or shall enter into any conspiracy, collusion, or agreement, express or implied, with intent to defraud the Corporation or wrongfully and unlawfully to defeat its purposes, shall, on conviction thereof, be fined not more than $5,000 or imprisoned not more than five years, or both.

SEC. 22. To aid further the proper use, conservation, and development of the natural resources of the Tennessee River drainage basin and of such adjoining territory as may be related to or materially affected by the development consequent to this Act, and to provide for the general welfare of the citizens of said areas, the President

*See preceding note.

is hereby authorized, by such means or methods as he may deem proper within the limits of appropriations made therefor by Congress, to make such surveys of and general plans for said Tennessee basin and adjoining territory as may be useful to the Congress and to the several States in guiding and controlling the extent, sequence, and nature of development that may be equitably and economically advanced through the expenditure of public funds, or through the guidance or control of public authority, all for the general purpose of fostering an orderly and proper physical, economic, and social development of said areas; and the President is further authorized in making said surveys and plans to cooperate with the States affected thereby, or subdivisions or agencies of such States, or with cooperative or other organizations, and to make such studies, experiments, or demonstrations as may be necessary and suitable to that end.

SEC. 23. The President shall, from time to time, as the work provided for in the preceding section progresses, recommend to Congress such legislation as he deems proper to carry out the general purposes stated in said section, and for the especial purpose of bringing about in said Tennessee drainage basin and adjoining territory in conformity with said general purposes (1) the maximum amount of flood control; (2) the maximum development of said Tennessee River for navigation purposes; (3) the maximum generation of electric power consistent with flood control and navigation; (4) the proper use of marginal lands; (5) the proper method of reforestation of all lands in said drainage basin suitable for reforestation; and (6) the economic and social well-being of the people living in said river basin.

SEC. 24. For the purpose of securing any rights of flowage, or obtaining title to or possession of any property, real or personal, that may be necessary or may become necessary, in the carrying out of any of the provisions of this Act, the President of the United States for a period of three years from the date of the enactment of this Act, is hereby atuhorized to acquire title in the name of the United States to such rights or such property, and to provide for the payment for same by directing the board to contract to deliver power generated at any of the plants now owned or hereafter owned or constructed by the Government or by said Corporation, such future delivery of power to continue for a period not exceeding thirty years. Likewise, for one year after the enactment of this Act, the President is further authorized to sell or lease any parcel or part of any vacant real estate now owned by the Government in said Tennessee River Basin, to persons, firms, or corporations who shall contract to erect thereon factories or manufacturing establishments, and who shall contract to purchase of said Corporation electric power for the operation of any such factory or manufacturing establishment. No contract shall be made by the President for the sale of any of such real estate as may be necessary for present or future use on the part of the Government for any of the purposes of this Act. Any such contract made by the President of the United States shall be carried out by the board: *Provided*, That no such contract shall be made that will in any way abridge or take away the preference right to purchase power given in this Act to States, counties, municipalities, or farm organizations: *Provided further*, That no lease shall be for a term to exceed fifty years: *Provided further*, That any sale shall be on condition that said land shall be used for industrial purposes only.

SEC. 25. The Corporation may cause proceedings to be instituted for the acquisition by condemnation of any lands, easements, or rights of way which, in the opinion of the Corporation, are necessary to carry out the provisions of this Act. The proceedings shall be instituted in the United States district court for the district in which the land, easement, right-of-way, or other interest, or any part thereof, is located, and such court shall have full jurisdiction to divest the complete title to the property sought to be acquired out of all persons or claimants and vest the same in the United States in fee simple, and to enter a decree quieting the title thereto in the United States of America.

Upon the filing of a petition for condemnation and for the purpose of ascertaining the value of the property to be acquired, and assessing the compensation to be paid, the court shall appoint three commissioners who shall be disinterested persons and who shall take and subscribe an oath that they do not own any lands, or interest or easement in any lands, which it may be desirable for the United States to acquire in the furtherance of said project, and such commissioners shall not be selected from the locality wherein the land sought to be condemned lies. Such commissioners shall receive a per diem of not to exceed $30 for their services, together with an additional amount of $10 per day for subsistence for time actually spent in performing their duties as commissioners, and reimbursement of actual transportation expenses including an allowance for use of privately owned automobiles at a rate not to exceed 7 cents per mile.

It shall be the duty of such commissioners to examine into the value of the lands sought to be condemned, to conduct hearings and receive evidence, and generally to take such appropriate steps as may be proper for the determination of the value of the said lands sought to be condemned, and for such purpose the commissioners are authorized to administer oaths and subpoena witnesses, which said witnesses shall receive the same fees as are provided for witnesses in the Federal courts. The said commissioners shall thereupon file a report setting forth their conclusions as to the value of the said property sought to be condemned, making a separate award and valuation in the premises with respect to each separate parcel involved. Upon the filing of such award in court the clerk of said court shall give notice of the filing of such award to the parties to said proceeding, in manner and form as directed by the judge of said court.

Either or both parties may file exceptions to the award of said commissioners within twenty days from the date of the filing of said award in court. Exceptions filed to such award shall be heard before three Federal district judges unless the parties, in writing, in person, or by their attorneys, stipulate that the exceptions may be heard before a lesser number of judges. On such hearing such judges shall pass de novo upon the proceedings had before the commissioners, may view the property, and may take additional evidence. Upon such hearings the said judges shall file their own award, fixing therein the value of the property sought to be condemned, regardless of the award previously made by the said commissioners.

At any time within thirty days from the filing of the decision of the district judges upon the hearing on exceptions to the award made by the commissioners, either party may appeal from such de-

cision of the said judges to the court of appeals, and the said court of appeals shall upon the hearing on said appeal dispose of the same upon the record, without regard to the awards or findings theretofore made by the commissioners or the district judges, and such court of appeals shall thereupon fix the value of the said property sought to be condemned.

Upon acceptance of an award by the owner of any property herein provided to be appropriated, and the payment of the money awarded or upon the failure of either party to file exceptions to the award of the commissioners within the time specified, or upon the award of the commissioners, and the payment of the money by the United States pursuant thereto, or the payment of the money awarded into the registry of the court by the Corporation, the title to said property and the right to the possession thereof shall pass to the United States, and the United States shall be entitled to a writ in the same proceeding to dispossess the former owner of said property, and all lessees, agents, and attorneys of such former owner, and to put the United States, by its corporate creature and agent, the Corporation, into possession of said property.

In the event of any property owned in whole or in part by minors, or insane persons, or incompetent persons, or estates of deceased persons, then the legal representatives of such minors, insane persons, incompetent persons, or estates shall have power, by and with the consent and approval of the trial judge in whose court said matter is for determination, to consent to or reject the awards of the commissioners herein provided for, and in the event that there be no legal representatives, or that the legal representatives for such minors, insane persons, or incompetent persons shall fail or decline to act, then such trial judge may, upon motion, appoint a guardian ad litem to act for such minors, insane persons, or incompetent persons, and such guardian ad litem shall act to the full extent and to the same purpose and effect as his ward could act, if competent, and such guardian ad litem shall be deemed to have full power and authority to respond, to conduct, or to maintain any proceeding herein provided for affecting his said ward.

SEC. 26. Commencing July 1, 1936, the proceeds for each fiscal year derived by the board from the sale of power or any other products manufactured by the Corporation, and from any other activities of the Corporation including the disposition of any real or personal property, shall be paid into the Treasury of the United States at the end of each calendar year, save and except such part of such proceeds as in the opinion of the board shall be necessary for the Corporation in the operation of dams and reservoirs, in conducting its business in generating, transmitting, and distributing electric energy and in manufacturing, selling, and distributing fertilizer and fertilizer ingredients. A continuing fund of $1,000,000 is also excepted from the requirements of this section and may be withheld by the board to defray emergency expenses and to insure continuous operation: *Provided*, That nothing in this section shall be construed to prevent the use by the board, after June 30, 1936, of proceeds accruing prior to July 1, 1936, for the payment of obligations lawfully incurred prior to such latter date.

SEC. 26a. The unified development and regulation of the Tennessee River system requires that no dam, appurtenant works, or other obstruction, affecting navigation, flood control, or public lands or reservations shall be constructed, and thereafter operated or maintained across, along, or in the said river or any of its tributaries until plans for such construction, operation, and maintenance shall have been submitted to and approved by the board; and the construction, commencement of construction, operation, or maintenance of such structures without such approval is hereby prohibited. When such plans shall have been approved, deviation therefrom either before or after completion of such structures is prohibited unless the modification of such plans has previously been submitted to and approved by the board.

In the event the board shall, within sixty days after their formal submission to the board, fail to approve any plans or modifications, as the case may be, for construction, operation, or maintenance of any such structures on the Little Tennessee River, the above requirements shall be deemed satisfied, if upon application to the Secretary of War, with due notice to the Corporation, and hearing thereon, such plans or modifications are approved by the said Secretary of War as reasonably adequate and effective for the unified development and regulation of the Tennessee River system.

Such construction, commencement of construction, operation, or maintenance of any structures or parts thereof in violation of the provisions of this section may be prevented, and the removal or discontinuation thereof required by the injunction or order of any district court exercising jurisdiction in any district in which such structures or parts thereof may be situated, and the Corporation is hereby authorized to bring appropriate proceedings to this end.

The requirements of this section shall not be construed to be a substitute for the requirements of any other law of the United States or of any State, now in effect or hereafter enacted, but shall be in addition thereto, so that any approval, license, permit, or other sanction now or hereafter required by the provisions of any such law for the construction, operation, or maintenance of any structures whatever, except such as may be constructed, operated, or maintained by the Corporation, shall be required, notwithstanding the provisions of this section.

SEC. 27. All appropriations necessary to carry out the provisions of this Act are hereby authorized.

SEC. 28. That all Acts or parts of Acts in conflict herewith are hereby repealed, so far as they affect the operations contemplated by this Act.

SEC. 29. The right to alter, amend, or repeal this Act is hereby expressly declared and reserved, but no such amendment or repeal shall operate to impair the obligation of any contract made by said Corporation under any power conferred by this Act.

SEC. 30. That the sections of this Act are hereby declared to be separable, and in the event of any one or more sections of this Act, or parts thereof, be held to be unconstitutional, such holding shall not affect the validity of other sections or parts of this Act.

SEC. 31. This Act shall be liberally construed to carry out the purposes of Congress to provide for the disposition of and make needful

rules and regulations respecting Government properties entrusted to the Authority, provide for the national defense, improve navigation, control destructive floods, and promote interstate commerce and the general welfare, but no real estate shall be held except what is necessary in the opinion of the board to carry out plans and projects actually decided upon requiring the use of such land: *Provided*, That any land purchased by the Authority and not necessary to carry out plans and projects actually decided upon shall be sold by the Authority as agent of the United States, after due advertisement, at public auction to the highest bidder, or at private sale as provided in section 4(k) of this Act.

Paragraph Seventh of Section 5136 of the Revised Statutes of the United States, as Amended (12 U.S.C. 24)

SEC. 5136. Upon duly making and filing articles of association and an organization certificate, the association shall become, as from the date of the execution of its organization certificate, a body corporate, and as such, and in the name designated in the organization certificate, it shall have power—

First. To adopt and use a corporate seal.

Second. To have succession from the date of the approval of this Act, or from the date of its organization if organized after such date of approval until such time as it be dissolved by the act of its shareholders owning two-thirds of its stock, or until its franchise becomes forfeited by reason of violation of law, or until terminated by either a general or a special Act of Congress or until its affairs be placed in the hands of a receiver and finally wound up by him.

Third. To make contracts.

Fourth. To sue and be sued, complain and defend, in any court of law and equity, as fully as natural persons.

Fifth. To elect or appoint directors, and by its board of directors to appoint a president, vice president, cashier, and other officers, define their duties, require bonds of them and fix the penalty thereof, dismiss such officers or any of them at pleasure, and appoint others to fill their places.

Sixth. To prescribe, by its board of directors, bylaws not inconsistent with law, regulating the manner in which its stock shall be transferred, its directors elected or appointed, its officers appointed, its property transferred, its general business conducted, and the privileges granted to it by law exercised and enjoyed.

Seventh. To exercise by its board of directors, or duly authorized officers or agents, subject to law, all such incidental powers as shall be necessary to carry on the business of banking; by discounting and negotiating promissory notes, drafts, bills of exchange, and other evidences of debt; by receiving deposits; by buying and selling exchange, coin, and buillion; by loaning money on personal security; and by obtaining, issuing, and circulating notes according to the provisions of this title. The business of dealing in securities and stock by the association shall be limited to purchasing and selling such securities and stock without recourse, solely upon the order, and for the account of, customers, and in no case for its own account, and the association shall not underwrite any issue of securities or stock: *Provided*, That

the association may purchase for its own account investment securities under such limitations and restrictions as the Comptroller of the Currency may by regulation prescribe. In no event shall the total amount of the investment securities of any one obligor or maker, held by the association for its own account, exceed at any time 10 per centum of its capital stock actually paid in and unimpaired and 10 per centum of its unimpaired surplus fund, except that this limitation shall not require any association to dispose of any securities lawfully held by it on the date of enactment of the Banking Act of 1935. As used in this section the term "investment securities" shall mean marketable obligations, evidencing indebtedness of any person, copartnership, association, or corporation in the form of bonds, notes and/or debentures commonly known as investment securities under such further definition of the term "investment securities" as may by regulation be prescribed by the Comptroller of the Currency. Except as hereinafter provided or otherwise permitted by law, nothing herein contained shall authorize the purchase by the association for its own account of any shares of stock of any corporation. The limitations and restrictions herein contained as to dealing in, underwriting and purchasing for its account, investment securities shall not apply to obligations of the United States, or general obligations of any State or of any political subdivision thereof, or obligations issued under authority of the Federal Farm Loan Act, as amended, or issued by the thirteen banks for cooperatives or any of them or the Federal Home Loan Banks or the Home Owners' Loan Corporation, or obligations which are insured by the Federal Housing Administrator pursuant to section 207 of the National Housing Act, if the debentures to be issued in payment of such insured obligations are guaranteed as to principal and interest by the United States, or obligations of the Federal National Mortgage Association, or such obligations of any local public agency (as defined in section 110(h) of the Housing Act of 1949) as are secured by an agreement between the local public agency and the Housing and Home Finance Administrator in which the local public agency agrees to borrow from said Administrator, and said Administrator agrees to lend to said local public agency, prior to the maturity of such obligations (which obligations shall have a maturity of not more than eighteen months), monies in an amount which (together with any other monies irrevocably committed to the payment of interest on such obligations) will suffice to pay the principal of such obligations with interest to maturity thereon, which monies under the terms of said agreement are required to be used for the purpose of paying the principal of and the interest on such obligations at their maturity, or such obligations of a public housing agency (as defined in the United States Housing Act of 1937, as amended) as are secured either (1) by an agreement between the public housing agency and the Public Housing Administration in which the public housing agency agrees to borrow from the Public Housing Administration, and the Public Housing Administration agrees to lend to the public housing agency, prior to the maturity of such obligations (which obligations shall have a maturity of not more than eighteen months), monies in an amount which (together with any other monies irrevocably committed to the payment of interest on such obligations) will suffice to pay the principal of such obligations

with interest to maturity thereon, which monies under the terms of said agreement are required to be used for the purpose of paying the principal of and the interest on such obligations at their maturity, or (2) by a pledge of annual contributions under an annual contributions contract between such public housing agency and the Public Housing Administration if such contract shall contain the covenant by the Public Housing Administration which is authorized by subsection (b) of section 22 of the United States Housing Act of 1937, as amended, and if the maximum sum and the maximum period specified in such contract pursuant to said subsection 22(b) shall not be less than the annual amount and the period for payment which are requisite to provide for the payment when due of all installments of principal and interest on such obligations: *Provided*, That in carrying on the business commonly known as the safe-deposit business the association shall not invest in the capital stock of a corporation organized under the law of any State to conduct a safe-deposit business in an amount in excess of 15 per centum of the capital stock of the association actually paid in and unimpaired and 15 per centum of its unimpaired surplus. The limitations and restrictions herein contained as to dealing in and underwriting investment securities shall not apply to obligations issued by the International Bank of Reconstruction and Development which are at the time eligible for purchase by a national bank for its own account, *nor to bonds, notes and other obligations issued by the Tennessee Valley Authority: Provided*, That no association shall hold obligations issued by [said bank] *either of said organizations* as a result of underwriting, dealing, or purchasing for its own account (and for this purpose obligations as to which it is under commitment shall be deemed to be held by it) in a total amount exceeding at any one time 10 per centum of its capital stock actually paid in and unimpaired and 10 per centum of its unimpaired surplus fund.

Eighth. To contribute to community funds, or to charitable, philanthropic, or benevolent instrumentalities conducive to public welfare, such sums as its board of directors may deem expedient and in the interests of the association, if it is located in a State the laws of which do not expressly prohibit State banking institutions from contributing to such funds or instrumentalities.

INDIVIDUAL VIEWS OF MR. WINSTON L. PROUTY

It is the committee's intent, insofar as the territorial restrictions in the bill are concerned, to permit desirable minor adjustments on the periphery of the area presently supplied by TVA power to take care of natural growth within that area.

However, I believe that in its efforts to protect the rights of present customers of TVA the committee has approved language which would permit a city or any other present customer of TVA to resell TVA power to innumerable communities, whatever their size, and throughout other areas, however large.

In my judgment, the language in the bill as presently written permits the Tennessee Valley Authority to make contracts for the sale of power with States, counties, municipalities, corporations, partnerships, and individuals with which it had contracts on July 1, 1957, and these contracts would not be subject to a territorial limitation of any kind.

Assume, for example, that TVA was, by a contractual arrangement, selling power to city A on July 1, 1957. Assume further that city A decides to resell TVA power not only to individual and industrial customers within its new suburbs, but also to cities B, C, and D which may be hundreds of miles away. The former sales would clearly be designed to take care of natural growth; the latter would be patently an effort by a city to enter the power business as a major distributor.

Both types of sales would be permissible under the language approved by the committee, notwithstanding its intent.

The same language which could serve as a vehicle for power service expansion on the part of the city would similarly allow other major customers of TVA to resell, freely and without limitation, power produced by the Tennessee Valley Authority.

I think the language in the bill to which I have taken exception should be amended in such a manner as to protect the rights of cities to serve contiguous areas which represent natural growth without encouraging an invasion of general load centers far removed from TVA.

WINSTON L. PROUTY.

SUPPLEMENTAL VIEWS OF MR. JENNINGS RANDOLPH ON H.R. 3460

The so-called territorial limitation or service area restriction prosions of H.R. 3460 have been the principal ones which have involved the Senate Committee on Public Works in protracted discussions.

It is to this phase of the legislation that attention is directed in these supplemental views.

The major differences of opinion within the Senate committee stemmed from the question of whether or not the language of (H.R. 3460) which passed the House actually would establish area limitations within which the Tennessee Valley Authority would be required to confine its power supply services.

Divergent views on the effectiveness of the House bill language to accomplish the purpose of service area restriction persisted throughout the period during which it was under consideration by the Senate Committee on Public Works.

The degree to which alternative proposals would liberalize or restrict the so-called service area of TVA was another factor.

But there still seems to persist a question as to whether or not the language of the House bill as it relates to TVA area limitation, or the provisions of the amended version of the bill as reported by the Senate committee, would be the most effective in accomplishing these objectives:

1. Permit TVA to perform its functions and meet its responsibilities without, at the same time, doing violence to the investor-owned power companies by encouraging TVA encroachment. There is and there can continue to be a place in the country for both free enterprise power systems and public power without overlapping.

2. Provide TVA with self-financing capacity and capability, but, in so doing, not excessively impair the ability of the private electric utilities contiguous to TVA to mantain themselves and provide financing for their own operating areas and customer expansion needs. In other words, there must be a recognition that both TVA and free enterprise utility systems have comparable problems in practically every respect except taxpaying obligations. Hence, in seeking to solve the problems of TVA the Congress has an obligation to be sure it is not compounding the problems of the investor-owned power companies.

The committee report, under its "Discussion" section, makes the point that—

> In 1939, the Congress enacted legislation authorizing TVA to purchase the facilities owned by private power systems in the Tennessee Valley region.

Not only was I a Member of the Congress which enacted that legislation, for which I voted, but, also, I served in the House of Representatives and militantly supported the original TVA Act of 1933.

Accordingly, I have a knowledge of the fundamentals under which the Congress acted in establishing TVA, and of the intended policy to not encroach upon the investor-owned private enterprise power systems.

The 1939 enactment, whereby the facilities owned by private power systems were acquired, actually did much to define what the committee report refers to as the TVA service area being a "nebulous" quantity.

The record shows that TVA has expanded its service area very little in recent years and I understand that its spokesmen have publicly denied it has desire to do anything other than develop its existing territory, including that of its distributors.

It is also true that discussions within the committee, which led to the approval of a provision respecting expansion different from that adopted by the House, indicated the clear intention on the part of the committee not to auhorize, by its general language, any expansion other than that occasioned by the normal growth of TVA's existing territory.

But the language used to spell out this desired result is, in my opinion, susceptible of interpretations which—at some time in the future, when memories have dimmed and new faces have come upon the scene—might lead to the subsequent assertion that powers not now intended to be conferred actually have been made legal.

Not only am I concerned lest the Congress should take steps to destroy much of the stability and serviceability of investor-owned power systems which have served their areas and their customers well, but, too, I am deeply troubled by the size of TVA and the powerful bargaining position it has achieved with respect to its purchase of coal, as well as by the manner in which it has used that bargaining power.

The economy of West Virginia and of contiguous areas is vitally affected by the condition of the bituminous coal industry, which is now in considerable difficulty. Unemployment is high and much distress prevails in the coal producing areas. We heard in the hearings from the miners, the producers, and the sellers of coal as to how TVA has operated to create depressed conditions for bituminous coal on a basis of its buying practices and its subscribing indirectly to inadequate safety standards in coal mines.

Because of TVA's tremendous geographical coverage and enormous purchasing power, it has been, to a very large degree, in a position to enforce upon the coal industry its coal-purchasing policies and practices. Further geographical expansion of TVA's service area would seriously worsen this situation to which I have alluded.

It has been said—and I certainly subscribed to the declaration when I supported the original TVA Act—that at the time TVA commenced its operations in its original area, private enterprise lacked the resources to develop fully the power system needs of that vast and then underdeveloped valley area. However, this has not been nor is it now true of the peripheral area beyond the present points which represent the outer limits of the so-called service area of TVA. It is surely not true in West Virginia.

The investor-owned public utilities of our State have been and continue to be efficient producers of an abundant supply of electric power generated from bituminous coal mined within the State.

Public utility powerplants there have regularly been rated higher in performance than TVA plants and are among the most efficient in the United States.

It would be inadvisable to permit excessive competition by TVA to encroach on the areas served by these and other investor-owned public utilities, to siphon off their customers and to destroy the value of their properties.

The committee has undertaken to restrict TVA authorized expansion to those States in which it now provides services, but the language of the committee amendment limits only the "making of contracts" by TVA and does not purport to place any limitation or restriction whatever upon the resale or use of TVA power by its distributors.

Thus, so long as transmission, distribution, and use of TVA power is by its distributors and not by TVA itself, there actually is no limitation whatsoever upon the transmission, distribution, resale, or use of TVA power outside of its existing service area. The committee amendment further provides that TVA can make contracts unlimited in nature, scope, or extent with any State, county, municipality, corporation, partnership, or individual with which it had a contract of any kind on July 1, 1957. Thus these conditions could prevail:

Subject only to the overall restriction of 500 square miles in any one State and an aggregate of 2,000 square miles of additional territory outside that area for which TVA was the primary source of power on July 1, 1957, it can, by contract, become a power supplier, in any State within which it is now serving, for cities having a population of 5,000 or less. TVA may also serve any city with a population up to 10,000 population in any State now served which owned its own distribution system on July 1, 1957.

The permitted expansion of TVA is not required to be in territory contiguous to the area now served. Hence, TVA transmission lines could be extended anywhere in the peripheral States now receiving service from TVA. Thus, it could add to recipients of its service hundreds of municipalities, as well as industrial customers, without exceeding the 500-square-mile limitation, even though such municipalities or industrial customers are already receiving efficient service from investor-owned utilities or are capable of being served by them.

Frankly, my efforts have been pointed in the direction of having incorporated in this legislation the substance of the gentlemen's agreement between TVA and the private enterprise utilities which has permitted an orderly growth of both the investor-owned companies and TVA for many years.

The Senate committee amendment, being completely devoid of restrictions upon expansion by present TVA customers and lacking any curb on resale of TVA power at wholesale to any other supplier of power, could have this effect:

By the device of contracting with a customer of TVA, rather than with the Authority itself, any distributor of power—however remote from the area in which TVA power presently is being used—could obtain and sell TVA electric energy in any area it might choose. This would seem to negate the territorial restriction intent of the House bill.

Inasmuch as the expansion which would be authorized by the Senate committee's recommended amendment is not required to be in areas

contiguous to the present TVA territory, such expansion could penetrate the entire service area of any utility in any one of the authorized States.

Bearing in mind that a transmission line extended 100 miles along a right-of-way 100 feet wide would consume only 2 square miles, it is not difficult to visualize the extent to which existing investor-owned power systems would be placed under a condition of serious potential disruption and instability, even with a 500-square-mile limit on the authorized expansion in any State now served by TVA.

There are some who believe that the Senate committee's proposed version of area limitation would invite unrestricted TVA invasion of the territory of neighboring public utilities and unlimited raiding of customers now being adequately served by such investor-owned systems. I do not share the view that the situation would grow into such a monstrosity of confusion. It is not difficult, however, to visualize that litigation to seek judicial answers to loopholes in the Senate committee version of H.R. 3460 would be extensive. Especially would this be true if the authorized expansion is not required to be contiguous.

Unwarranted extension of facilities and service to meet normal TVA growth requirements for its basic customer area has heretofore been controlled by:

(1) Appropriations by the Congress; and

(2) A gentlemen's nonencroachment agreement between TVA and the investor-owned power companies.

Since TVA expansion would no longer be controlled through the appropriation procedure, it is essential that limitations compatible with the gentlemen's agreement now existing should clearly be established in this legislation.

Of course, consistent with this view TVA should be encouraged to serve any "islands" which now exist within its geographical operating area as it existed on July 1, 1957.

JENNINGS RANDOLPH.

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